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Massachusetts Determination of Need Regulations

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Attested as a true copy
PAUL GUZZI

Paul Guzzi

SECRETARY OF THE COMMONWEALTH

PUBLICATION OF THIS DOCUMENT APPROVED BY ALFRED C. HOLLAND, STATE PURCHASING AGENT.

MASSACHUSETTS DETERMINATION OF NEED REGULATIONS

Commonwealth of Massachusetts
Department of Public Health
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Preface

The regulations contained in this volume represent, from the Department's point of view, a significant positive step in the evolution of the determination of need process. The regulations reflect the Department's careful consideration of the various views expressed at the three public hearings held in connection with the proposed regulations. In addition, they reflect the Department's assessment of how best to fulfill its statutory responsibility to administer the certificate of need laws in a manner that balances the sometimes conflicting interests of consumer groups, reviewing agencies, Departmental staff and applicants. The Department wants the public to know that it views the certificate of need process as a developing process and that its regulations have and will continue to be updated as the Department's understanding of that process evolves.

While these regulations contain numerous changes in the procedural and administrative aspects of the previous set of regulations, the Department particularly wants to call the public's attention to two of these changes. First, the regulations contain several procedural mechanisms for speeding up the process of making determinations of need. Central among these mechanisms is the development of a fast-track process for considering projects involving such things as renovations required for continued licensure or certification and ancillary services which do not expand the scope of services provided by a health care facility.

Second, these regulations represent a beginning effort by the Department to use the certificate of need process to encourage sound fiscal planning by providers of health care services. The Department has worked with provider groups, members of the financial community, and the Rate Setting Commission to develop a regulatory framework which will hopefully remove much of the guesswork from estimating capital expenditures and which will provide an impetus for applicants to consider the financial feasibility of their projects. Standardized financial information forms will be used, terminological ambiguities have been corrected, and the process for refining estimates of capital expenditures has been integrated with the realities of planning a construction project. The Department fully expects to review the financial planning aspects of the certificate of need process frequently and to update its thinking in this regard as it develops increased sophistication in this area.

In addition to the above, there is one matter of major importance concerning certificate of need which has not been included in the present set of regulations. Namely, this volume of regulations does not contain a great deal more specificity concerning standards and criteria for determining need than did the previous set of regulations. While the Department included more specific standards and criteria in the proposed regulations, the clear sentiments expressed at the public hearings was that further discussion, analysis and public scrutiny was necessary before precise standards could be formulated. As a result of this sentiment, the Public Health Council at its January 23, 1975, meeting adopted the following resolutions concerning the formulation of standards and criteria:

(A) That the staff work out a process for developing more precise standards and criteria which process shall be consistent with the following basic outline:

(1) That the staff request the regional c.h.p. agencies, with the technical assistance of the state c.h.p. agency, to establish a statewide committee to recommend more precise standards and criteria.

(2) That Departmental personnel provide such technical support, guidance and direction to the committee as is feasible.

(3) That the committee solicit views from all relevant provider groups, consumer groups, governmental agencies, and other interested parties in an effort to get an informed, balanced view of the issues.

(4) That the committee present its recommendations to the Department staff for its analysis and review as expeditiously as possible.

(5) That, after it attempts to resolve such differences with the committee as may be possible, the Department staff will present the committee's recommendations to the Council together with a staff analysis of them.

(6) That the Council will review the package of standards and staff analysis submitted and will listen to oral presentation from the committee and staff concerning them. If the recommended standards are generally acceptable to it, the Council will submit the standards, with such changes as the Council deems appropriate, to the public at large through the normal public hearings process for eventual incorporation into the regulations.

(B) That the staff report to the Council periodically on the progress of the development of the standards and criteria and that the tentative target date for completion of a draft for presentation to the Council be June 15, 1975.

(C) That pending development of more precise standards and criteria, the Council will continue to make its determinations on the basis of standards, methodologies, and practices currently in use.

(D) That while the Council has the statutory authority to require certain medical office buildings to come within the ambit of certificate of need and may choose to include them in the future, it hereby exempts at this time all medical office buildings from the requirement of obtaining a certificate of need prior to construction.

Finally, the Department urges prospective applicants to review these regulations carefully prior to filing applications for certificate of need and to pay special attention to the Transition section found at the end of these regulations. Applicants may also find useful the appendix to these regulations which contains a reprint of applicable statutory provisions, as well as a brief summary of the way in which the certificate of need process relates to licensure, certification and rate setting.

FOREWORD

1. PURPOSE

The regulations in this volume are set forth for the purpose of interpreting and implementing G.L. c. 111, ss. 25b to 25G, s. 51, 2nd par., and s. 51A, c. 111B, ss. 6 and 6A, and c. 155, s. 2B, the principal provisions of the General Laws conferring responsibility upon the Department of Public Health for making determinations of need.

2. AUTHORITY

These regulations are adopted under authority of G.L. c. 111, s. 3, s. 5, ss. 25B-25D, s. 25F, s. 51, 2nd par., and s. 51A, c. 111B, ss. 6, and 6A, and c. 155, s. 2B and the following additional authority, as indicated: 4.5, G.L. c. 30A, ss. 8, 9; 14.3, G.L. c. 4, s. 7, 26th par.; 31.1 and 31.2, G.L. c. 111, ss. 25A, 51 and 71, and c. 111B, s. 6; 33.3, G.L. c. 111, ss. 5, 53, and 72; 51.1, G.L. c. 30A, s. 11A; 53.2(6), G.L. c. 111, ss. 51 and 71, and c. 111B, s. 6; 60.2(3), G.L. c. 30A, ss. 1(1), 9-11, and 12.

3. CITATION

These regulations shall be known, and may be cited, as "Massachusetts Determination of Need Regulations".

SCOPE AND DEFINITIONS

4. SCOPE

4.1 Jurisdiction Generally

These regulations shall govern determinations of need in every instance where, under G.L. c. 111, s. 25C, s. 51, 2nd par., s. 51A or c. 111B, ss. 6, and 6A, or c. 155, s. 2B, the Department has jurisdiction to determine the need for any health care facility or any part or service of any such facility.

4.2 Determinations Required Under G.L. C. 111, S. 25C

Under the provisions of G.L. c. 111, s. 25C, no person or government agency may make a substantial capital expenditure for construction of a health care facility or a substantial change in the services of any such facility, unless the Department has determined that there is a need for such substantial capital expenditure or substantial change in service.

4.3 Determinations Required Under G.L. C. 111, S. 51

Under the provisions of G.L. c. 111, s. 51, 2nd par., and under the authority of G.L. c. 111, s. 51A no person or government agency shall be issued an original license to establish or maintain a hospital, an institution for unwed mothers, a clinic, or an out-of-hospital dialysis unit unless the Department has determined that there is a need for such facility at the designated location. A determination made for purposes of G.L. c. 111, s. 25C, shall, if applicable, also be valid for purposes of s. 51, 2nd par., and s. 51A as long as the determination remains in effect.

4.4 Determination Required Under G.L. C. 111B, SS. 6 and 6A

Under the provisions of G.L. c. 111B, ss. 6 and 6A, no person shall be issued an original license, and no government agency shall be issued an original approval, to establish or maintain either an alcoholism detoxification facility or a halfway house for alcoholics, unless the Depart-

ment has determined that there is a need for the facility in the relevant community. A determination made for purposes of G.L. c. 111, s. 25C, shall also be valid for purposes of c. 111, ss. 6 and 6A, as long as the determination remains in effect.

4.5 Related Jurisdiction Under G.L. C. 111, S. 25D

(1) Under the provisions of G.L. c. 111, s. 25D, no person shall make a solicitation of funds from the general public or enter into any agreement in order to secure financing for the construction of a health care facility or for a substantial change in the services of a health care facility, unless such person, at least thirty days prior thereto, has filed written notice of his intent with the Department. If the Department requires an application for determination of need under G.L. c. 111, s. 25C, such person shall not make any solicitation of funds until such application has been acted upon by the Department and need has been found to exist.

(2) Each agency of the commonwealth desiring to make a substantial capital expenditure for construction of a health care facility or a substantial change in services of the facility shall apply for a determination of need. Any such agency may, if it deems it desirable, submit a request, through the executive office in which it is located, for a capital appropriation for such a project at the same time as or after it has filed an application. For the information of such agencies, the current policy of the Executive Offices of Human Services (EOHS) and for Administration and Finance (A&F) is set forth in this paragraph. EOHS will forward capital outlay requests to A & F with a statement listing those projects which are subject to these regulations and a status report showing the date an application was filed and its

current status for each such project. No request for such a project will be forwarded to A & F until an application has been filed unless delay in forwarding the request would be contrary to the public interest. A & F will decide whether to forward any such request to the General Court before the Department has acted on the application, but intends to do so only where there is good cause to believe that need will be found and where delay in forwarding the request would be contrary to the public interest. A & F will file a similar status report with requests so forwarded. The Department shall file its report on each such application with EOHS, A&F and, for requests which have been forwarded, the General Court.

These regulations shall not apply to any such agency project for which an appropriation for construction (and not simply for planning) had been made prior to November 15, 1971; provided, that these regulations shall apply to any such project for which the agency contemplates an increased construction expenditure of greater than one hundred thousand dollars ($100,000) over the amount appropriated as of November 15, 1971.

4.6 Related Jurisdiction Under G.L. C. 155, S. 2B

Under the provisions of G.L. c. 155, s. 2B, governing Departmental review of articles of organization of corporations, and of amendments thereto, the Commissioner shall make a finding of need for an organization proposing the purposes of establishing a hospital, institution for unwed mothers, clinic, or long-term care facility, only if the Department, upon application under G.L. c. 111, s. 25C, or S. 51, 2nd par., pursuant to these regulations, has determined that there is a need for the facility to be established.

4.7 Submission to Jurisdiction

Notice is hereby given that any person submitting an application for determination of need to the Department for filing shall be deemed, by virtue of such action, to submit to the jurisdiction of the Department under these regulations, notwithstanding any saving language such person may place in such application. Persons desiring a ruling as to the applicability of G.L. c. 111, s. 25C or s. 51, 2nd par., s. 51A, or c. 111B, ss. 6 and 6A, or c. 155, s. 2B, before submitting an application, are advised to request an advisory ruling pursuant to part 12.

5. DEFINITIONS

The following terms as used in these regulations shall be interpreted as follows, unless the context or subject matter clearly requires a different interpretation:

(1) "Applicable service area" means the area from which the predominant utilization of the services of the health care facility can reasonably be expected to occur and which will ordinarily be the geographical health area, as established by the Executive Office for Administration or Finance or, in the case of those institutions for the mentally ill or retarded which are subject to these regulations, by the Department of Mental Health, in which a proposed project is to be located. If available, relevant patient origin data may be considered in determining the service area.

(2) "Appropriate regional comprehensive health planning agency" or "appropriate regional c.h.p. agency" means the regional comprehensive health planning agency, if any, organized in accordance with section 314(b) of the federal Public Health Service Act whose geographical jurisdiction includes the largest portion of the population to be served by a project among those regional comprehen-

sive health planning agencies organized in the Commonwealth.

(3) "Capital expenditure" means any expenditure, past, present, or future, which, under generally accepted accounting principles, is not properly chargeable as a cost of operation and maintenance, and which shall include any fee for architectural, engineering, legal, accounting, and other professional services, any interest charge or other financing cost capitalized throughout the construction period of the project, any site acquisition cost, and fair market value of any leased capital equipment or leased land (see 31.5), provided that, in every case, such expenditure is incurred or will be incurred as an incident of construction as defined herein. (see 5(6)).

(4) "Commissioner" means the Commissioner of Public Health appointed under the provisions of G.L. c. 17, s. 2.

(5) "Comparable Applications" are those regular applications filed in the same filing period which propose similar or reasonably interchangeable health care services for applicable service areas which are the same in whole or in significant part. (See 30.5).

(6) "Construction" means the construction of a new health care facility or the alteration of, expansion of, making of major repairs to, remodeling of, renovation of or replacement of an existing health care facility, including the initial, additional or replacement equipping of any such facility, and the acquisition of consulting, architectural, and engineering services or of a site, when such acquisition is directed toward an undertaking sufficiently specific to constitute the subject matter of an application for determination of need under these regulations.

(7) "Council" means the Public Health Council established under G.L. c. 111, s. 3.

(8) "Department" means the Department of Public Health consisting of

the Commissioner of Public Health and the Public Health Council.

(9) "Department of Elder Affairs" means the Department of the Commonwealth organized pursuant to G.L. Ch. 19A (added by St. 1973 c. 1168). (See 15).

(10) "Determination of Need" means the formal decision of the Department made pursuant to part 54 relative to the need for the project proposed in an application.

(11) "Determination of need program" means the program established within the Department for the administration of G.L. c. 111, ss. 25B to 25G, s. 51, 2nd par., s. 51A, and c. 111B, ss. 6 and 6A, as they relate to determination of need, and to the extent and in the manner set forth in these regulations.

(12) "Emergency situation" means a situation where the public health has been injured or there is a clear and present danger of such injury, or where the existing health care facility has been destroyed or otherwise substantially damaged or there is a clear and present danger of such damage.

(13) "Government agency" means any agency of the Commonwealth or of any political subdivision of the Commonwealth, including a city, town, or county, but not an agency of the United States even if such agency maintains a medical institution within the Commonwealth.

(14) "Health care facility" or "facility" means a hospital, institution for the care of unwed mothers, or clinic subject to licensing under G.L. c. 111, s. 51; a long-term care facility, including an infirmary maintained in a town, a convalescent or nursing home, a rest home, or a charitable home for the aged, subject to licensing under G.L. c. 111, s. 71; an out-of-hospital dialysis unit subject to licensing under G.L. c. 111, s. 51A; any public medical institution,

as defined in part 5(21), including alcoholism detoxification facilities and institutions for the mentally ill or retarded; and any part of such facility; but not a facility operated by a religious group relying solely on spiritual means through prayer and healing and in which health care by or under the supervision of doctors of medicine, osteopathy, or dentistry is not provided.

(15) "License" means a permit from the Department, either full or provisional, and not transferrable, authorizing the maintenance of a health care facility by the person named therein and at the premises named therein.

(16) "Major service" includes, in the case of a hospital, medicine, surgery, anesthesiology, pediatrics, obstetrics, psychiatry, radiology, pathology, and physical and rehabilitative medicine, and any recognized subspecialty of any of said specialties including, but not limited to, coronary care or radiation therapy; in the case of a clinic or satellite clinic, medicine, surgery, dentistry, rehabilitation, and psychiatry; and in the case of a long-term care facility, skilled nursing and rehabilitative care (level I/II), supporting nursing care (level III), and resident care (level IV), and any specialty care not covered by any of said levels of care.

(17) "Original license" means the first license issued a person for the premises named therein, and is granted either upon establishment or change of location or ownership of a health care facility. For purposes of determining whether an original license is required due to a change of location, "change of location" means any change in the location of a health care facility subject to licensing under c. 111, s. 51 which can reasonably be expected to result in a substantial change in the population to be served by the facility.

(18) "Person" means an individual or his estate upon his death, or a cor-

poration, a partnership, a trust, an association, or an organized group of persons, whether incorporated or not; or any receiver, trustee, or other liquidating agent of any of the foregoing while acting in such capacity.

(19) "Project" means any construction or substantial change in services subject to determination of need under G.L. c. 111, s. 25C, or establishment of a new or relocated hospital, institution for unwed mothers, or clinic, subject to determination of need under G.L. c. 111, s. 51, 2nd par., or out-of-hospital dialysis unit subject to c. 111, s. 51A, or establishment of a new or relocated alcoholism detoxification facility or halfway house for alcoholics under G.L. c. 111B, ss. 6, or 6A.

(20) "Program Director" means the employee of the Department who, under the general supervision of the Commissioner, administers the determination of need program.

(21) "Public medical institution" means any institution, including an institution for the mentally ill or retarded, an alcoholism detoxification facility or halfway house, or an out-of-hospital dialysis unit, which is supported in whole or in part by public funds, either federal, state or municipal, which is staffed by professional, medical and nursing personnel and providing medical care, and which is, or is likely to be, subject to licensing by the Department under G.L. c. 111, s. 51, s. 51A or s. 71, or to approval by the Department under G.L. c. 111B, s. 6 or 6A, c. 118E, s. 2(e), or other provisions of law, or to certification by the Department in order to participate in programs administered pursuant to Titles 18 and 19 of the federal Social Security Act.

(22) "Range of capital expenditures" means the range between a minimum and maximum estimate of capital expenditures in which the maximum shall

not exceed the minimum by greater than twenty-five percent (25%).

(23) "Range of financing charges" means the range between a minimum and maximum estimate of the anticipated financing charges in which the maximum shall not exceed the minimum by greater than four (4) percentage points per annum.

(24) "Site" means the land proposed for construction of a health care facility and any building thereon included in the purchase cost, whether such building is to be used in the construction or is to be razed.

(25) "Solicitation of funds from the general public ... in order to secure financing for construction ... or a substantial change in services" or "public solicitation of funds" means the act of approaching any member of the general public with a request or plea for a donation of funds to be used for construction or a substantial change in services of a health care facility; for such purposes, "general public" shall include any member of the board of directors of a corporation organized under G.L. c. 180 or other charitable corporation, unless such board consists of twenty or fewer members, or such person is an active member of any executive committee of such board when it consists of more than twenty members.

(26) "Staff" means any and all employees of the Department.

(27) "State comprehensive health planning agency" or "state c.h.p. agency" means the agency designated to carry out comprehensive health planning functions on a state-wide basis in accordance with section 314(a) of the federal Public Health Service Act and regulations made thereunder. (See 17).

(28) "Substantial capital expenditure" means a capital expenditure which exceeds, or may reasonably be regarded as likely to exceed, one hundred thousand dollars ($100,000). See 5(3).

(29) "Substantial change in services" means, with respect to a health care facility any change in kind in the services delivered in a health care facility, including:

(a) any addition of a major service as defined in 5(16);

(b) establishment of a satellite clinic on separate grounds from the establishing hospital;

(c) any increase over the facility's licensed quota of greater than four beds; or

(d) even if its licensed quota is not exceeded, a permanent increase by a facility of greater than four beds in the actual bed capacity of one of its existing major services. For purposes herein, "permanent" shall mean any increase which is not of a seasonal nature or not otherwise intended to be for less than 1 year in length;

Provided, that such term shall in no case include a change of degree (except an increase of bed capacity as set forth herein), or discontinuance of an entire facility or a decrease in bed capacity or elimination of a service; and

Provided further, that, unless a substantial capital expenditure is involved, it shall also not include, with respect to a hospital, a change in ambulatory services offered at the hospital itself (rather than at a satellite clinic), or with respect to a convalescent or nursing home or a rest home, a change in any level of care offered if the change is from a higher to a lower level of care, or with respect to any health care facility, a change in or addition to its services which will have a duration of no greater than 1 year in length measured from the date operation of the changed service commenced. (See 19).

(30) "Taxpayer" means any individual residing in the Commonwealth, sub-

ject to any income, excise or property tax of the Commonwealth or of any political subdivision of the Commonwealth during the calendar year in which he signs a written request for a public hearing or a statement of registration under part 14 or in which he signs comments with respect to an application under part 43.

(31) "Transfer of ownership" means, a transfer of the authorization contained in a determination of need from one person or government agency to another or, where the licensee is a limited or general partnership, any transfer of twenty-five percent (25%) of the partnership interest, or, where the holder is a corporation, a transfer of twenty-five percent (25%) or more of the stock therein, said transfers to be figured on a cumulative basis.

(32) "Unique Application" means an application for any of the following projects:

(a) An application, not otherwise covered by G.L. c. 111, s. 25C, for an original license for a hospital, institution for unwed mothers, a clinic, or an out-of-hospital dialysis unit to be issued pursuant to G.L. c. 111, s. 51, 2nd par., or s. 51A.

(b) An application for an original license or an approval to establish either an alcoholism detoxification facility or a half-way house for alcoholics pursuant to G.L. c. 111B, ss. 6 and 6A.

(c) An application pursuant to G.L. c. 111, s. 25C for a project which is inherently not comparable in nature and is concerned solely with repairs, remodeling, or renovation specifically ordered pursuant to state or federal regulations governing physical plant, or with any construction involving heating, ventilation, parking, dietary services, administrative services, or similar equipment, services, or facilities not directly related to the provision of medical care or treatment provided that such

construction is both consistent with the existing scope of health care services offered by the applicant and also goes no further than the scope of the repairs ordered.

(d) An application pursuant to G.L. c. 111, s. 25C for a project which is inherently not comparable in nature and is concerned solely with any construction of ancillary or supportive services such as diagnostic x-ray, laboratory facilities, operating rooms, physical therapy, occupational therapy, social services provided that such construction is consistent with the existing scope of health care services offered by the applicant.

(e) An application pursuant to G.L. c. 111, s. 25C, relating solely to a community mental health center as defined in 42 U.S.C. s. 2691(c) and 42 CFR, s. 54.201(d), or parts thereof, whether located on a single site or multiple sites.

6. (Reserved for Possible Future Use)

GENERAL PROVISIONS

7. NUMBER AND GENDER

Words in these regulations importing the singular number may extend and be applied to several persons or things. Words in these regulations importing the plural number may include the singular. Words in these regulations importing the masculine gender shall include the feminine and neuter.

8. SUBMISSION OF PAPERS

Any paper directed to the Program Director, the Commissioner, or the Department shall be submitted, by hand delivery, or by first-class mail, to the Department, at the offices of the Program Director, Room 925, 80 Boylston Street, Boston 02116, unless different instructions are given either in the regulation requiring such submission or in writing by a staff member of the Department.

9. COMPUTATION OF TIME

Any period of time specified in these regulations or otherwise in connection with the determination of need program shall include every calendar day, whether the offices of the Department are open on that day or not, except, that, when the last day of the period falls on a day when the offices are closed, such period shall end instead on the next day on which the Department is open for business.

10. AVAILABILITY OF FORMS

Any forms prepared in accordance with these regulations shall be available upon request made in person or in writing to the Program Director. Any changed forms shall be mailed by the staff to any person whose application is pending and is affected by the change in the forms.

11. COMMUNICATIONS

11.1 Communications by Applicants at Times Other than during Pendency of Applications

Prior to the filing of an application, and after final Department action upon an application, verbal and written communications shall be freely permitted with the staff and the Commissioner; provided, however, that in no event is any member of the staff, the Program Director, or the Commissioner authorized to give any indication of what specific action the Council may take upon the merits of any application which may be filed with it. General advice, however, can be given as to the manner of making application, the procedures to be followed in processing the application, and the nature of criteria and standards applied by the Department in considering applications.

11.2 Written Communications During Pendency of Applications

Persons and government agencies subject to these regulations may freely communicate in writing with the Department regarding a pending application; provided, however, that when doing so, they must send one copy of all such written communications to every other appropriate party of interest, including the applicant, the "state c.h.p. agency", the "appropriate regional c.h.p. agency", any applicable duly registered ten taxpayer groups, and the Department of Elder Affairs, if relevant pursuant to 15.

11.3 Oral Communications by Applicants during Pendency of Applications

During such time as an application for determination of need is before the Department, neither the applicant nor any employee or agent of the applicant shall initiate any oral communication with any staff member, the Program Director, the Commissioner, or any member of the Council to urge a particular outcome concerning an application except through the procedures established in these regulations or at a meeting where notes are kept for inclusion in the public file on the application. Applicants shall be freely permitted to make verbal inquiry from the staff or the Commissioner concerning the status or progress of an application or for technical assistance in complying with these regulations.

11.4 Sanction for Improper Communication by Applicants

Notice is hereby given that, when an applicant, either directly or through an employee or agent, makes a communication which is prohibited under 11.3 or which is otherwise clearly improper, the Department may dismiss his application under part 53.

12. ADVISORY RULINGS

12.1 Authority to Make Advisory Rulings

Under the provisions of G.L. c. 30A, s. 8, the Department may, upon the request of any interested person or government agency, make an advisory ruling with respect to the applicability to any person, property, or state of facts of any provision of these regulations or the applicable statutes under which these regulations are adopted.

12.2 Requests for Advisory Rulings

Any interested person or government agency desiring an advisory ruling under 12.1 shall direct his or its request in writing to the Department, Attention: Office of General Counsel, Room 218, 600 Washington Street, Boston 02116 and shall forward a copy of the request to the Program Director, Room 925, 80 Boylston Street, Boston 02116. Each such request shall be entitled "Request for Advisory Ruling" and shall set forth, clearly and succinctly, the following: name and address of the person making the request; his interest in or relationship to the health care facility involved; the state of facts with respect to which the ruling is requested; and the statutory provision or the section of these regulations involved. The person or government agency making such request may also include therein his or its views and opinions as to the proper ruling.

12.3 Making of Advisory Rulings

It shall be within the discretion of the Commissioner whether or not to make an advisory ruling when requested under 12.2. Each advisory ruling

shall be made within sixty (60) days of its receipt by an attorney within the Office of General Counsel on behalf of the Department, but shall be subject to review by the Council upon written request filed with the Office of General Counsel within fourteen days of notice of such ruling.

12.4 File and Distribution of Advisory Rulings

A copy of all Advisory Rulings rendered hereunder shall be kept on file both in the Office of General Counsel and in Office of the Determination of Need Program and shall be available for public inspection. The Office of General Counsel shall mail one copy of each advisory ruling to the appropriate regional c.h.p. agency, the state c.h.p. agency, and, if relevant pursuant to 15, the Department of Elder Affairs.

13. PUBLIC INFORMATION

13.1 Public Files Kept on Applications

The Program Director, at his offices, shall maintain a file, open to public inspection, which shall contain all records of a public nature concerning every application for a determination of need. In addition, at the offices of the Commissioner, the Secretary of the Department shall maintain a file, also open to public inspection, of the official record of every Department action, including every notice of determination of need.

13.2 Public Records Concerning Applications

Each of the following documents relating to an application for a determination of need shall be treated as a public record: a notice of intent; an application for determination of need; an amendment to an application; any withdrawal of an application; written comments by c.h.p. agencies, by the Department of Elder Affairs, by ten taxpayers, or by applicants; staff report and revisions thereof prepared pursuant to part 44; official records of Department action; notices of Department

action and any other written communication of an official nature filed with or sent by the Department in connection with an application.

13.3 Semi-Monthly Report

The Program Director shall cause a semi-monthly report to be prepared, which report shall ordinarily be prepared on the 1st and the 15th of each month and which shall contain the following information:

(1) the name of each person submitting a notice of intent under part 20, together with the location and a brief description of the project for which notice is given;

(2) the name of each person or government agency submitting an application for determination of need under part 30, together with the location and a brief description of the project for which application is made;

(3) insofar as practicable, the date, time and place of every public hearing ordered under part 31; and

(4) a synopsis of all determinations of need made by the Department under part 54, including the name of the applicant and the location and a brief description of the project for which such determination has been made.

Copies of this report shall be available for inspection at the offices of the Program Director and at the Commissioner's office. In addition, one copy of this report shall be sent to the state and regional comprehensive health planning agencies, the Department of Elder Affairs and the Department of Mental Health.

14. TEN TAXPAYERS

Under these regulations various opportunities are provided citizens of the Commonwealth organized as ten taxpayers for participation in, and notice concerning, the review of an application for determination of need. In order to avail themselves of such opportunities, interested persons shall

register with the Department in the following manner: (A) during the period provided under 41 in which a public hearing may be requested, by filing a written request for such a hearing, and (B) at any time during the pendency of an application, by filing a statement of registration with the Program Director. Any such request or statement shall list each taxpayer by name and address, shall identify the application in which the taxpayers are interested, shall specify which taxpayer is to be the recipient of all written communications concerning the application, and shall be signed by each taxpayer listed. Upon receipt of any such request or statement, the Program Director shall promptly send a copy to the affected applicant and to the affected c.h.p. agencies and to the Department of Elder Affairs (see 15).

15. DEPARTMENT OF ELDER AFFAIRS

15.1 Applicability of Regulations

Pursuant to St. 1973 c. 1168, ss. 19, 20, and 21, the Department of Elder Affairs has been authorized to participate in proceedings under G.L. c. 111, s. 25C involving geriatric long-term care facilities, including an infirmary maintained in a town, a convalescent or nursing home, a rest home, or a charitable home for the aged, subject to licensing under G.L. c. 111, s. 71. Accordingly, whenever these regulations call for any person to send any application, notice, or document of any kind to the Department of Elder Affairs or for review or comment on applications or other participation by the Department of Elder Affairs hereunder, the same shall be construed to apply only to applications under G.L. c. 111, s. 25C involving geriatric long-term care facilities.

15.2 Submission of Papers

Any paper directed to the Department of Elder Affairs shall be submitted by hand-delivery, or by first-class mail, at the offices of the Department of Elder Affairs, 18 Tremont Street, Boston, Mass. 02108 unless different instructions are given in writing by a staff member

of said Department.

16. ENVIRONMENTAL IMPACT

Pursuant to St. 1972, c. 781, the Department must comply with the provisions of G.L. c. 30, ss. 61 and 62 (the "Environmental Impact Law") and the regulations promulgated thereunder by the Executive Office of Human Services, 9 CHSR Chapter II, prior to granting a determination of need. Pursuant to those regulations, an environmental impact report must be completed on any project at least sixty days prior to granting a determination of need unless the project is exempted under the above referred to regulations or unless a negative assessment has been made in accordance with those regulations (See 9 CHSR SS. 203.04, 204.7(i)).

Applicants are urged to familiarize themselves with the provisions of the environmental impact law and the relevant regulations of the Executive Office of Human Services prior to submitting an application for certificate of need. In addition, prior to filing an application, applicants are urged to consider those sections of the certificate of need regulations which specifically relate to environmental impact. (See, e.g., 31.3, 31.5, 54.3(6)).

17. COMPREHENSIVE HEALTH PLANNING AGENCIES

17.1 State C.H.P. Agency

The state comprehensive health planning agency is currently the Office of Comprehensive Health Planning (OCHP). Any paper directed to the OCHP shall be submitted by hand-delivery, or by first-class mail, at the offices of the OCHP, 100 Cambridge Street, Room 909, Boston, Mass. 02202 unless different instructions are given in writing by a staff member of OCHP.

17.2 Regional C.H.P. Agencies

The current regional c.h.p. agencies and their current addresses are listed below. Any paper directed to a regional c.h.p. agency shall be submitted by hand-delivery, or by first-class mail, at

the offices of the regional c.h.p. agency at the address listed below unless different instructions are given in writing by a staff member of the regional c.h.p. agency.

Region	Agency	Address
Region I	Western Mass. Health Planning Council, Inc.	380 Union Street West Springfield, Mass. 01089
Region II	Comprehensive Health Planning Council of Central Massachusetts, Inc.	P.O. Box 1046 Worcester, Mass. 01613
Region III, V, VI	The Health Planning Council for Greater Boston, Inc.	One Gateway Center 610 West Newton, Mass. 02158
Region IV	North Shore Health Planning Council	10 First Street Peabody, Mass. 01960
Region VII	Comprehensive Health Planning, Inc.	P.O. Box 70, Route 28 Office Building Middleboro, Mass. 02346
Region VIII	Merrimack Valley Health Planning Council, Inc.	1 Elm Square Andover, Mass. 01810

17.3 Relationship of C.H.P. Agencies to Applicants

An Applicant is expected to cooperate fully with the state and appropriate regional c.h.p. agencies during their review of its application. In addition, prospective applicants are encouraged to seek advice from c.h.p. agencies in the planning of projects and in the preparation of applications for submission to the Department pursuant to these regulations.

18. DEPARTMENT OF MENTAL HEALTH

The Department of Mental Health has the statutory responsibility, pursuant to G.L. c. 19, s. 1 to "take cognizance of all matters affecting the mental health of the citizens of the Commonwealth and the welfare of the mentally retarded." Accordingly, the Department of Mental Health may, in accordance with this section, review and comment upon any application for facilities or services exclusively or primarily designed for the mentally ill or the mentally retarded and for any inpatient beds to be reserved for the care

of the mentally ill or the mentally retarded. The Program Director shall provide to the Department of Mental Health, at its request, a copy of any such application, and of any comments submitted regarding any such application with the Program Director and shall provide a copy of any such comments to the affected applicant, the state and appropriate regional c.h.p. agency, any duly filed ten taxpayer group, and the Department of Elder Affairs, if relevant, pursuant to 15.

19. EXEMPTED ONE YEAR PROJECTS

19.1 Notification Concerning Exempted Project

Pursuant to 5(29), a project which does not involve a substantial capital expenditure and which would otherwise constitute a substantial change in services may be exempted if it has a duration of no greater than one (1) year in length. Any person or government agency wishing to apply this exemption to a proposed project shall submit to the Program Director, prior to commencement of the project, a written statement describing the project and stating the anticipated dates the project will commence and conclude.

19.2 Continuation of Project Beyond One Year

If a person or government agency intends to continue a project exempted pursuant to 19.1 for greater than one (1) year, he or it shall apply for a certificate of need prior to the expiration of the year. Any application for a certificate of need filed hereunder must be filed in accordance with the provisions of these regulations. Final action will be based on the normal standards and criteria used by the Department in reviewing applications of the type involved. Pending final action on any such application for certificate of need filed, the exemption will remain in effect.

DUTIES BEFORE APPLICATION

20. NOTICES OF INTENT
(not applicable to government agencies)

20.1 Duty of Notification

Any person intending to make a solicitation of funds from the general public or to enter into any agreement in order to secure financing for construction or a substantial change in services shall file notice of his intent, at least thirty days before taking such action and, if public solicitation is intended, shall be subject to such order as the Commissioner may issue under part 21.

20.2 Contents of Notice of Intent

Every notice of intent under 20.1 shall be entitled "Notice of Intent to Secure Financing" and shall contain at least the following information: name and address of person giving notice; location of project (by street address if site has been selected), including the name of any existing health care facility involved; description of project, including specification of licensing category of facility to be constructed or involved in project and of any change in services contemplated; target population by medical category and applicable service area; amount, type, and sources of financing to be sought; and best estimate of capital expenditure necessary for project.

20.3 Notice of Intent Form

A notice of intent form shall be available from the Program Director upon request, but need not be used, provided, that the requirements of 20.2 are met.

20.4 Manner of Notification

Notices of intent under 20.1 shall be submitted for filing, with an original and three (3) copies, to the Department, Attention: Determination of Need Program, Room 925, 80 Boylston Street, Boston 02116.

Each notice shall be signed by the person under a duty to file same, or by its chief executive officer. Such signature shall constitute certification by the signer that he has read the document and that every statement contained therein is true to the best of his knowledge. Each notice submitted hereunder shall be deemed filed on the day of receipt by the Department; provided, however, that the Program Director shall refuse to accept for filing, and after filing, shall revoke his acceptance of, any notice not conforming to the requirements of 20.2 or this section.

20.5 Copies of Notice to C.H.P. Agencies

Upon filing of a notice of intent under 20.4, the person filing the notice shall provide a copy to the state and appropriate regional c.h.p. agency, and the Department of Elder Affairs if relevant, pursuant to 15.

20.6 General Fundraising

The provisions of this section shall not apply to any solicitation or securing of financing where the undertaking to be funded is not sufficiently specific to constitute the subject matter of an application for determination of need pursuant to these regulations.

21. POSTPONEMENT OF SOLICITATION FROM GENERAL PUBLIC
(not applicable to government agencies)

21.1 Order to Postpone Solicitation Pending Determination

Where a notice of intent filed with the Department indicates that the person filing intends to solicit funds from the general public, the Commissioner, on behalf of the Department, may within thirty (30) days after receipt of such notice, direct such person to file an application for determination of need and not to make a public solicitation without a determination that need exists for the project applied for or as it may be modified by the Department.

21.2 Review of Order by Council

Every order under 21.1 shall remain in effect unless rescinded by the Council, which shall review such order at its first regular meeting after issuance.

21.3 Failure to Issue Order

Where the Commissioner does not issue an order under 21.1, the person filing notice of intent to solicit funds from the general public may make such solicitation without first applying for a determination of need. Failure by the Commissioner to issue an order, however, shall not be interpreted as in any way constituting a determination that need exists for the project applied for or as it may be modified by the Department. Representation to the contrary for the purpose of securing funds shall be ground to dismiss an application for determination of need.

22-29 (Reserved for Possible Future Use)

APPLICATIONS

30. APPLICATIONS GENERALLY

30.1 Submission

Every person or government agency seeking a determination of need shall submit an application therefor, in an original and with three (3) copies, to the Department, Attn.: Determination of Need Program, Room 925, 80 Boylston Street, Boston 02116, and, prior to or at the same time as such submission, shall submit ten (10) copies of such application to the appropriate regional c.h.p. agency, two (2) copies to the state c.h.p. agency, and, if required to pursuant to part 15, 2 copies to the Department of Elder Affairs. However, in the case of an emergency application or of an exhibit to any application numbering more than ten (10) pages, only an original and one (1) copy need be submitted to the Department, and only one (1) copy to the appropriate regional c.h.p. agency, the state c.h.p. agency, and, if relevant, pursuant to part 15, the Department of Elder Affairs.

30.2 Acceptance for Filing

Without regard to the day on which an application is received, an application shall not be considered filed until the appropriate filing day as set forth under 30.3.

30.3 Filing Days

The filing days for applications, by category of application, shall be as follows:

(1) the business day on which such application is received:

(A) Emergency Applications

Any person seeking treatment of an application as an emergency application must request the Program Director to determine whether there is an emergency situation as defined in 5(12). A determination by the Program Direc-

reversed by the Department upon written motion of the applicant filed with the Program Director within 14 days of such determination.

(B) Unique Applications

Any person seeking treatment of an application as a unique application must file a written request that the Program Director determine whether the application constitutes a Unique Application as defined in 5(32). The Program Director shall determine whether an application is to be treated as Unique within fourteen (14) days of receipt of the request therefor and shall send written notice of his determination to the applicant, setting forth his reasons therefor. A determination by the Program Director that an application is not a Unique Application may be reversed by the Department upon written motion of the applicant filed with the Program Director within 30 days of such determination. The Department shall act on any such motion at the first regular Council meeting following the filing of the motion; provided, that the Department may act at the second meeting if the motion is filed less than eight (8) days before a scheduled meeting.

(2) the first business day of January, May, and September:

(A) Regular Applications

(Consisting of all other applications filed hereunder).

30.4 Revocation of Acceptance

Within thirty (30) days of the applicable filing date, the Program Director may revoke the acceptance of any application not submitted in accordance with 30 and part 31 or not advertised in accordance with part 32. Any person or government agency whose application is

revoked under this section may make a new submission on the next appropriate filing day. The Program Director shall return an application so revoked to the applicant together with any filing fee, and he shall promptly notify each appropriate regional c.h.p. agency, the state c.h.p. agency, the Department of Elder Affairs if relevant pursuant to part 15, and any registered ten taxpayers of his action.

30.5 Designation of Comparable Applications

Within seven (7) days after each filing day for regular applications, any regional c.h.p. agency or the Department of Elder Affairs, if relevant, pursuant to 15, may file a written recommendation with the Program Director, for him to consider in his discretion as to which applications, if any, he should designate as comparable as defined in 5(5). Within fifteen (15) days of each filing day for regular applications, the Program Director shall designate those applications filed on such day which are comparable as defined in 5(6). He shall promptly notify each applicant whose application is designated as comparable of the name, address, and project number of each comparable applicant. Similar notification shall be given to the appropriate regional c.h.p. agency, to the state c.h.p. agency, and, if relevant pursuant to part 15, to the Department of Elder Affairs. Any applicant or agency wishing to object to an affirmative designation of comparability made by the Program Director shall file a statement of objection in writing with the Program Director not more than ten days after being notified of said designation. Within 30 days of the filing of any such objections, the Program Director shall present the statement of objections to the Department which may reverse the Program Director's designation of comparability. No designation shall be subsequently changed, unless required by an amendment made under 34.1.

30.6 Assistance Prior to Application

Prospective applicants are advised to exercise the utmost care in devel-

oping projects and in preparing and submitting applications, and are urged beforehand to consult the appropriate regional c.h.p. agency. Assistance shall also be available from the Department staff insofar as is possible consistent with the staff's other duties under these regulations.

30.7 Standing to Make Application

No person or government agency shall be permitted to make application for determination of need under G.L. c. 111, s. 25C, unless such person or agency has sufficient interest in the site or facility and unless such site may be used for the proposed purpose under applicable zoning by-law or ordinance, or a variance has been received to permit such use.

As used hereunder, sufficient interest shall mean one of the following: (A) clear legal title to the proposed site, or (B) a lease for at least five (5) years with options to renew for not less than a total of twenty (20) years in the case of a hospital, insitution for unwed mothers, long-term care facility, or institution for the mentally ill or retarded, or (C) a lease for at least one (1) year with options to renew for not less than total of five (5) years in the case of an alcoholism detoxification facility or a clinic, or (D) a legally enforceable agreement to give such title (under A) or such lease (under B or C) in the event need is determined by the Department, or (E) permission to use premises for a period of at least two (2) years in the case of a clinic organized under G.L. c. 180 (non-profit corporation) or (F) in the case of a government agency, recommendation of not more than four alternative sites by an official site selection committee and acceptance of that recommendation by the duly elected or appointed chief officer of that agency and, in the case of an agency of the Commonwealth of Massachusetts within an executive office, acceptance of that recommendation by the Secretary of that office.

Satisfactory documentation of standing as required herein must be contained in the applicant's statement of application, including a letter from the appropriate municipal authority indicating that the site for the proposed project is properly zoned for the anticipated use and scope of the project. (See 31.2). If no documentation is found, the acceptance of the application may be revoked. If the documentation is found but is not satisfactory, opportunity shall be provided to submit additional documentation. Failure to provide satisfactory documentation shall result in dismissal of the affected application.

31. CONTENTS OF APPLICATION

31.1 General Description

Every application for determination of need, shall consist of four parts as described below, and an affidavit of publication of notice of such application as required in part 32, together with such additional information as the applicant may wish to present in accordance with 31.4. The Program Director shall prepare at least two sets of forms for parts (1) and (2) -- one for Regular Applications and an abbreviated form for Unique Applications. All written material submitted hereunder shall be typewritten or written by hand in a legible manner.

(1) Statement of Application, on a form prepared by the Program Director in accordance with 31.2, together with such exhibits as the applicant appends to such form in accordance with the printed instructions for completion;

(2) Supporting Documentation, on a form prepared or approved by the Program Director in accordance with 31.3, together with such exhibits as the applicant appends to such form in accordance with the instructions for completion;

(3) Filing Fee, if any, and Computation Sheet, as required in

31.6; and

(4) Affidavit of Truthfulness and Proper Submission on a form prepared by the Program Director in accordance with 31.7.

31.2 Statement of Application

Every applicant, on a form prepared by the Program Director, shall give a general statement of the proposed project. While the form may be changed periodically, the required statement will ordinarily deal with at least the following subjects: Identity of applicant; nature, scope, and location of project; description of applicant's existing health care facility, if any; the estimated range of capital expenditures required for project, if any; proposed method of financing including the estimated anticipated range of financing charges, if any; description of applicable service area and target population; proposed schedule for completion of the project, including impact on cost and financing; and, if a notice of intent has not been filed for the project, an explanation why no notice was filed should be included (except in the case of an application made solely under G.L. c. 111, ss. 51 and 51A or c. 111B, ss. 6 and 6A).

31.3 Supporting Documentation

Every applicant shall provide the Department with the information and supporting documentation required by it on Supporting Documentation forms and instruction sheets prepared or approved by the Program Director. The Program Director may revise the forms and instruction sheets periodically and may have different forms for different types of projects and may permit the applicant to use forms prepared for other government agencies if the said forms contain the same or essentially similar information as the Supporting Documentation forms. Such supporting documentation forms will at a minimum solicit information regarding the capital, financing and operating costs of the project, financial feasibility and capability, environmental impact if any, documen-

tation of planning with providers, community groups and c.h.p. agencies, and supportive health planning data such as utilization rates and average lengths of stay.

31.4 Additional Information

Every applicant shall be on notice that he is responsible for justifying the need for the project requested in his statement of application. Accordingly, in addition to completing the Statement of Application and Supporting Documentation forms provided for hereunder, every applicant may submit, with his application, whatever additional evidence he wishes to place before the Department in support of his statement of application.

31.5 Calculation of the Estimated Range of Capital Expenditure

In calculating the estimated range of capital expenditure for construction, every applicant shall include not only all expected future expenditures in connection with a project but also any past or present expenditure necessary for its construction, e.g., purchase price of an earlier acquired site, or expense of feasibility or other planning studies used in developing a project or preparing an application, or other legal consultant fees incurred in seeking grant, loan, or other financing. Where construction is to be undertaken on leased property, or where equipment to be installed is leased, the fair market value of such land or such equipment shall be used in calculating the portion of the proposed capital expenditure attributable to land or equipment. Every calculation must take into account all capital expenditures (see 5(3)) including but not limited to, construction, fixed and moveable equipment. As is further explained in the applicable portion of the application forms, all calculations shall be based on costs as of the date of application with no estimate regarding inflation included. In calculating the estimated range of capital expenditure, applicants should consider the provisions of 55.2(3, 6 and 7) dealing with the

project cost condition placed on every determination of need.

31.6 Filing Fee and Computation Sheet

Every applicant shall accompany his statement of application and supporting documentation with a filing fee, if required, computed in the manner described below, and a computation sheet, on a form prepared by the Department, showing all computations. If no fee is required, only the computation sheet shall be submitted, with a statement, in the proper place, explaining the basis for exemption.

(1) A filing fee is required from every person applying under G.L. c. 111, s. 25C. Persons applying solely under G.L. c. 111, ss. 51 and 51A or c. 111B, ss. 6 and 6A, or c. 155, s. 2B and government agencies applying under any provision of law, shall be exempt.

(2) Where the proposed minimum point in the range of capital expenditures is one million ($1,000,000) or less, the filing fee shall be one hundred dollars ($100).

(3) Where the proposed minimum point in the range of capital expenditures is greater then one million dollars ($1,000,000) the filing fee shall be one hundred dollars ($100) plus .00005 of the excess over $1,000,000, said calculation to be based on the minimum point in the range.

(4) Every applicant required to submit a filing fee shall be on notice that such fee is subject to adjustment as provided under 34.4 and to refund only in the circumstances and to the extent set forth under 30.4 and 34.5.

31.7 Affidavit of Truthfulness and Proper Submission

Every applicant shall include, with the other parts of his application, on the proper form, a statement signed by him under the pains and penalties of perjury that, after reading the application and any additional information submitted, and after making diligent inquiry of any agents

responsible for completing or submitting the application, he assures the Department that, to the best of his knowledge, the application and additional information contains no false statement or misrepresentation of fact, and, that, to the best of his knowledge, copies of the application, in the requisite number, and true in every respect, have been sent by mail or delivered by hand to the appropriate c.h.p. agency, to the state c.h.p. agency, to the Department of Elder Affairs if relevant pursuant to part 15, and to the Department. In the case of a corporate applicant, the president of the corporation shall sign the affidavit on behalf of the corporation; in the case of a partnership, all partners shall sign the affidavit; in the case of a limited partnership, the general partner shall sign the affidavit; and in the case of a trust, all trustees shall sign the affidavit.

31.8 Exceptions Applicable To Emergency Applications

Instead of using the application forms described in 31.1, any person or government agency may, in an emergency situation under 30.3(1)(A), make application for a determination of need by filing with the Department a letter, signed under the pains and penalties of perjury, which sets forth the identity of the applicant, the nature of the emergency, and the nature, scope, location, and cost of the project. The applicant shall file the appropriate filing fee either with such letter or as soon as possible thereafter. Within the discretion of the Commissioner, the applicant may subsequently be required to submit any or all of the usual application forms.

32. NOTICE OF APPLICATION AND CERTAIN AMENDMENTS

32.1 Duty to Announce Application and Certain Amendments

Except in a situation involving an emergency application (see 32.4), every applicant for determination of need shall cause notice of its application, and of any amendment thereto if required under 34.3, to be published prior to the filing of such application or amendment (A)

in the following daily newspaper which publishes in the city or town of, or nearest to, the locus of the project: Athol News, Attleboro Sun, Beverly Times, Boston Globe or Boston Herald American, Brockton Enterprise and Times, Chelsea Recor, Clinton Item, Fall River Herald News, Fitchburg Sentinel, Framingham News, Gardner News, Gloucester Times, Greenfield Recorder, Haverhill Gazette, Holyoke Transcript - Telegram, Hudson Sun, Hyannis Cape Cod Standard Times, Lawrence Eagle Tribune, Leominster Enterprise, Lowell Sun, Lynn Item, Malden News, Marlborough Enterprise, Medford Mercury, Melrose News, Milford News, New Bedford Standard-Times, Newburyport News, North Adams Transcript, Northampton Hampshire Gazette, North Attleborough Chronicle, Pittsfield Berkshire Eagle, Quincy Patriot Ledger, Salem News, Southbridge News, Springfield Union or Springfield News, Taunton Gazette, Wakefield Item, Waltham News-Tribune, Woburn Times or Worcester Telegram or Worcester Gazette, and (B), if the project is not located in one of the places listed above, also in the weekly newspaper which publishes in the city or town of, or nearest to, the locus of the project.

32.2 Form and Contents of Notice

Every notice of application or amendment shall conform to the following standards for form and content:

(1) Form. The notice shall be at least two inches high by three columns wide, or at least three inches high by two columns wide; shall appear in the Legal Notice section; and shall be captioned, as appropriate, either "Public Announcement Concerning (name of health care facility involved)" or "Public Announcement Concerning New Health Care Facility". In the case of regular applications, an identical notice shall also be published at least once in some other section of the appropriate newspaper.

(2) Contents. The notice shall identify by name, the applicant and, by name and address, the health care facility involved (in cases of expansion or substantial change in services); and shall describe the project briefly, including the type of facility involved, the locus involved, the type of service proposed or involved (e.g., "addition of 40 medical-surgical beds in a new wing"; "construction of a new long-term care facility with 40 Level I/II beds, 60 Level III beds, and 60 Level IV beds"); and shall contain the following statements: "A public hearing shall be ordered on the (application) (application as amended) at the request of any ten taxpayers of the Commonwealth made in writing, not later than (date, Twenty days after proposed filing day), to the Department of Public Health, Attention: Determination of Need Program, Room 925, 80 Boylston Street, Boston, Massachusetts 02116. The application (and amendment) may be inspected at such address and also at (address of appropriate regional c.h.p. agency)."

32.3 Affidavit of Publication

No application for determination of need, and no amendment if required under 34.3 shall be accepted for filing, unless the applicant has submitted, along with the application or amendment, on a form prepared by the Program Director, a statement signed under the pains and penalties of perjury that the applicant has caused notice of his application to be published in accordance with these regulations, and that a true copy of such notice is attached to the affidavit.

32.4 Notice of Emergency Applications

In the case of an emergency application under 30.1 and 31.7, notice of the application may be given after the application has been filed with the Department. Publication of notice shall otherwise be as

prescribed in 32.1 and 32.2. An Affidavit of Publication in conformity with 32.3 shall be filed with the Department within ten (10) days after filing of the application.

33. EFFECT OF APPLICATION

33.1 Effect in General

No substantive right shall accrue to any person or government agency by the filing of an application for determination of need, nor shall designation of any application as a comparable application in relation to any other application give rise to any substantive right.

33.2 Procedural Safeguards Accorded Applicants

Every person or government agency filing a regular application shall be entitled to disposition of its application before or at the same time as the Department takes final action on any other application in the same category, filed on a subsequent filing day, for any comparable service in the same applicable service area. Designation of such application as comparable in relation to any other application filed on the same filing day shall further entitle the applicant to have its application considered in comparison with, and disposed of at the same time as, each such application, unless the applicant waives this requirement or the Department determines that action on one comparable application will have no prejudicial effect upon any other comparable application. Whenever the Department, within its discretion, proposes to compare applications filed in different categories or on different filing days, it shall accord each affected applicant, as a matter of right, opportunity to amend pursuant to part 34.

34. AMENDMENT OF APPLICATIONS

34.1 Right to Amend Statement of Application

After an application has been filed with the Department, the applicant may amend the portion entitled statement of application only in the following circumstances:

(1) for ten days after notice from the Department of its intent to consider the application in comparison with an application filed in a different category or on a different filing day; or

(2) for sixty (60) days after the applicable filing day with the written permission of the Program Director, which permission will not be withheld unless the amendment adversely affects any other applicant; provided that this period may be extended by the Program Director for good cause shown.

34.2 Right to Amend Supporting Documentation or Submit Additional Information

Subject to the provisions of part 51 - dealing with the grounds for tabling consideration of an application by the Council and to the other provisions of this part, an applicant may amend its supporting documentation or submit additional information to the Department for sixty (60) days after the applicable filing day in the case of a regular application and for thirty (30) days after filing in the case of any other application, which periods may be extended for good cause by the Program Director. Copies of any documents submitted hereunder shall be sent to all appropriate parties in accordance with part 11.

34.3 Mandatory Amendment

In the case of an application filed under G.L. c. 111, s. 25C, an applicant shall be required to file an amendment to its statement of application if, during the course of consideration of the application, any supporting documentation or other material filed with the Department by the applicant indicates that:

(1) the maximum point in the estimated range of capital expenditures will exceed that submitted in the Statement of Application;

(2) the nature, scope and location of the project or the proposed method of financing will differ substantially from those described in the Statement of Application;

(3) the identity of the applicant has changed;

provided, however, that the Program Director shall be authorized to waive the requirements of this section if he determines that the anticipated change in the Statement of Application is technical, or otherwise insignificant.

34.4 Manner of Amendment

If an amendment to a Statement of Application is filed under 34.1 or 34.3, the applicant must file an Affidavit of Truthfulness and Proper Submission (see part 31) and shall submit copies of the amendment to the appropriate regional comprehensive health planning agency, the state comprehensive health planning agency, any duly filed ten taxpayer group, the Department of Elder Affairs, if relevant pursuant to 15 and any comparable applicants. In the case of an amendment to the Statement of Application under G.L. c. 111, s. 25C, the Department shall take no action on the amended application until:

(1) Notice of the amendment has been published in accordance with section 32.

(2) Such amended application has been on file with the Department for at least thirty (30) days.

(3) A public hearing has been held thereon if requested within 20 days of publication and

(4) The appropriate regional c.h.p. agency, the state c.h.p. agency, the Department of Elder Affairs, if relevant pursuant to 15, any ten taxpayers, and any affected applicants have had 30 days from publication or ten (10) days after any public hearing, or such further period as the Program Director may allow upon written request, in which to comment thereon.

An increase in filing fee must be submitted to cover any increase in the estimated capital expenditure. See 31.6.

34.5 Acceptance of Amendments

Each amendment submitted hereunder shall be deemed filed on the day of receipt by the Department; provided, however, that the Program Director shall refuse to accept for filing, and after filing, shall be authorized to revoke his acceptance of, any amendment not submitted or not advertised in the manner prescribed in 34.4. An Amendment not accepted because of failure to submit or to advertise in the prescribed manner will be accepted upon correction of such defect if filed within ten (10) days after receipt of notice of the defect. Whenever the Program Director refuses to accept or revokes his acceptance of an amendment, he shall return such amendment to the applicant, and he shall promptly notify each appropriate regional c.h.p. agency, the state c.h.p. agency, the Department of Elder Affairs, and any ten taxpayers of such action.

34.6 Adjustment of Time for Departmental Action

All parties are hereby put on notice that the time specified for Departmental action under part 54 shall be deemed to begin again effective on the date of acceptance of an amendment to a Statement of Application filed hereunder.

35. WITHDRAWAL OF APPLICATION

Any applicant for determination of need may at any time, by written notice to the Program Director, withdraw an application filed under these regulations. Whenever an application is withdrawn, the Program Director shall promptly notify each appropriate regional c.h.p. agency, the state c.h.p. agency, the Department of Elder Affairs, if relevant pursuant to 15, and any ten taxpayers. An applicant shall not be entitled to a refund of any filing fee submitted except as provided in 31.6(4).

36-39 (Reserved for Possible Future Use)

PUBLIC AND STAFF REVIEW

40. REVIEW OF APPLICATIONS GENERALLY

40.1 Opportunity for Public Comment

With respect to each application for determination of need, except an emergency application, the Department shall afford the appropriate regional c.h.p. agency, the state c.h.p. agency, the Department of Elder Affairs, if relevant, and any ten taxpayers a reasonable opportunity to comment thereon, and shall consider any such comments, if filed in a timely and proper manner, as provided in parts 42 and 43, before it acts on such application. Other persons and agencies may make their views known to the Department at the public hearing, if one is ordered under 41.1, or in writing; the nature and extent of any such comments shall be within the discretion of the Department.

40.2 Review and Comment with Respect to Emergency Applications

It shall be within the discretion of the Commissioner whether, and to what extent, to permit review and comment upon an emergency application. No provision of parts 41 and 43 shall apply to an emergency application, unless the Commissioner directs otherwise in a particular instance.

41. PUBLIC HEARINGS

41.1 Public Hearings Generally

The Program Director shall order a public hearing upon an application, to be held in accordance with this part, upon written request made under 41.2, or whenever, in his opinion, a public hearing would aid the staff in carrying out its duties under part 44. Any public hearing which may be held in respect to any comparable application shall concern all applications involved in such comparison.

41.2 Requests for Public Hearings

A public hearing on an application shall be ordered under 41.1 upon

written request of an affected applicant, the appropriate regional c.h.p. agency, the state c.h.p. agency, the Department of Elder Affairs, if relevant pursuant to 15, or any ten taxpayers; provided, that such request is filed with the Program Director within twenty (20) days after the applicable filing day. Such period for filing, however, shall extend for ten (10) days after the applicable filing day in the case of applications not initially but subsequently designated as comparable under 30.5.

41.3 Purpose and Nature of Public Hearing

The purpose of a public hearing under this part shall be to allow any person to make his views with respect to an application known to the Department through an oral presentation given before its designated representatives. Such hearing shall not be adjudicatory but shall be in the nature of a public forum for the presentation of any comment which may be relevant to the consideration of an application under these regulations.

41.4 Notices of Public Hearing

The Program Director, at least ten (10) days before a public hearing ordered under 41.1, shall cause notice of the time, place, and nature of such hearing to be given to each person or agency entitled to a public hearing upon request under 41.2, and to be announced generally through publication in at least one daily or weekly newspaper distributed in the applicable service area of the project.

41.5 Time and Place of Public Hearing

A public hearing ordered upon request under 41.2 shall be held not more than forty (40) days after it is requested in the case of a regular application and not more than twenty (20) days after it is requested in the case of a unique application. A public hearing ordered by the Program Director under 41.1 may be held at any time.

applicable service area of the project involved.

41.6 Conduct of Public Hearing

The designated representative of the Department shall be responsible for the conduct of any public hearing, including setting the permissible length of presentations, arranging the order of presentations, and serving as presiding officer. Requests to speak shall be made to the presiding officer at the beginning of each public hearing, and, if he permits, during the hearing. Following each presentation if the speaker is willing, questions may be asked by the presiding officer and by any member, employee, or agent of the Department assisting him in the conduct of the public hearing.

41.7 Report of Public Hearing

The Program Director shall cause a summary of the comments given at each public hearing to be prepared as part of the staff report under part 44; provided, that the Program Director shall not be required to summarize comments by applicants, c.h.p. agencies, the Department of Elder Affairs or ten taxpayers made at a public hearing. It shall be the duty of each such applicant, agency, or group to file any comments he or it wishes to make in writing to the Department under part 42 or 43 or 45, as the case may be.

42. C.H.P. AGENCY AND DEPARTMENT OF ELDER AFFAIRS COMMENTS

42.1 C.H.P. and Department of Elder Affairs Agency Right of Comment

Before taking action under parts 52 to 55 upon an application for determination of need, the Department shall consider any written comments or specific recommendations for final action filed by the appropriate regional c.h.p. agency and by the state c.h.p. agencies, and, by the Department of Elder Affairs, if relevant pursuant to 15; provided, that the agency involved files its comments with the Program Director in a timely and proper manner under these regulations.

42.2 Period for C.H.P. Agency and Department of Elder Affairs Comment

Comments by the state or appropriate regional c.h.p. agency or the Department of Elder Affairs, if relevant pursuant to 15, shall be filed with the Program Director not more than sixty (60) days after the applicable filing day in the case of a regular application and not more than thirty (30) days after the applicable filing day in the case of a unique application. The period for comment shall extend for ten (10) days after any public hearing held pursuant to part 41. If, within the period for comment for unique applications, any party indicates in writing to the Program Director that a particular unique application requires further time for review, then the period for comment shall extend for no greater than sixty (60) days after the applicable filing day.

In the case of a regular application, the period for comment hereunder may be extended by the Program Director for good cause shown in a written request submitted therefor.

42.3 Standards Governing Specific Recommendations

Recommendations shall be treated as specific recommendations under 54.8 only if they: appear in comments filed in a timely and proper manner; recommend either approval, denial, or other definite final action with respect to each part of the applicant's request. Comments in the nature of observations shall in no event be considered to be specific recommendations within the meaning of this section or G.L. c. 111, s. 25C.

42.4 Relationship of C.H.P. Agencies and Department of Elder Affairs to Applicants

Applicants are encouraged to cooperate with c.h.p. agencies and with the Department of Elder Affairs, if relevant pursuant to 15. Applicants are urged to appear before such agency if they are requested to do so. (See parts 15 and 17).

42.5 Distribution of C.H.P. and Department of Elder Affairs Comments to Applicant, Ten Taxpayers

Each regional and the state c.h.p. agency, and the Department of Elder Affairs, if relevant pursuant to 15, shall provide a copy of its written comments to each affected applicant, to each other and to any duly filed ten taxpayers; and, it shall submit certification of compliance with said requirement when it files such comments with the Program Director.

43. TEN TAXPAYER COMMENTS

43.1 Ten Taxpayer Right of Comment

Before taking action under parts 52 and 55 upon an application for determination of need, the Department shall consider any written comments or specific recommendations for final action filed by any ten taxpayers; provided, that such taxpayers file their comments with the Program Director in a timely and proper manner under these regulations. Specific recommendations contained therein shall conform to the standards set forth in 42.3.

43.2 Period for Ten Taxpayer Comment

Comments by ten taxpayers shall be filed with the Program Director not more than sixty (60) days after the applicable filing day in the case of a regular application and not more than thirty (30) days after the applicable filing day in the case of a unique application. The period for comment shall extend for ten (10) days after any public hearing held pursuant to part 41.

If, within the period for comment for unique applications, any party indicates in writing to the Program Director that a particular unique application requires further time for review, then the period for comment shall extend for no greater than sixty (60) days after the applicable filing day.

In the case of a regular application, the period for comment hereunder

may be extended by the Program Director for good cause shown in a written request submitted therefor.

43.3 Provision of Ten Taxpayer Comments to Applicant and C.H.P. Agencies

Any ten taxpayers exercising the right of comment set forth in part 34 or this part shall provide a copy of their written comments to each affected applicant, to each appropriate regional c.h.p. agency, to the state c.h.p. agency and to the Department of Elder Affairs, if relevant pursuant to 15; and, they shall submit certification of compliance with this requirement when they file such comments with the Program Director.

44. STAFF REPORTS

44.1 Duty of Staff to Prepare Written Report

The Program Director shall prepare a written staff report for subsequent transmission to the Council on every application for Determination of Need unless withdrawn under 35; provided that the Program Director may dispense with this requirement in the case of an emergency application filed pursuant to 30.3(A) and shall be authorized to file an abbreviated report in the case of a unique application. See 44.5.

44.2 Contents of Staff Report for Regular Applications

The staff report on each regular application shall contain at least the following: a description of the project applied for, with a summary of any significant supporting material filed by the applicant; a summary of all comments filed in a timely and proper manner by the appropriate regional or state c.h.p. agency, by the Department of Elder Affairs, or by any ten taxpayers as well as any specific recommendations properly filed; a summary of other pertinent comments given at any public hearing; a summary of such other comments as the Program Director wishes to bring to the Department's attention; any additional material or staff analysis which the Program Director believes would aid the Department in its determination; a statement of

the staff's recommendation or suggested options for final or preliminary action upon the application. In the event, however, that the Program Director appends to the staff report either the application or certain comments, he may omit from the staff report the required summary of such comments.

44.3 Provision of Staff Report to Applicant and Certain Others

Except as is provided in 44.5 with regard to unique applications, at least twenty-one (21) days before the Department meeting at which an application is scheduled for action, the staff report shall be placed in the public file on the application. At the same time the staff report is placed in the public file, a copy of the same shall be sent by first-class mail to each affected applicant, and also to the state and appropriate c.h.p. agency, to the Department of Elder Affairs, if relevant pursuant to 15, and to any affected duly registered ten taxpayer group.

44.4 Right to Comment on Staff Report

Except with regard to applications where abbreviated reports are filed pursuant to 44.5, each affected applicant, the state and appropriate c.h.p. agency, the Department of Elder Affairs, and any affected duly registered ten taxpayer group shall have the right to file written objections or other comments regarding the staff's report; provided that

(1) the written comments are received by the Program Director at least 8 days prior to the Council meeting at which an application is scheduled for action; and

(2) twelve (12) copies of the comments are filed.

Applicants are hereby put on notice that, if their comments contain information which was not previously made available to the staff, the staff may recommend to the Council tabling of consideration of the application until there has been adequate time for further staff

analysis. (See 34.3 and 34.6 regarding mandatory amendments).

44.5 Procedures Regarding Staff Reports for Unique Applications

If no specific recommendations for disapproval have been filed with regard to a Unique Application within the time limits specified in 42.2 or 43.2 and if the Program Director is prepared to recommend approval of the said application, the Program Director shall:

(1) Prepare an abbreviated staff report containing only such information as may be necessary or helpful to apprise the Council of the nature of the project applied for and the reason (s) for recommending approval.

(2) Place the staff reports in the public file at least seven (7) days before the Department meeting at which an application is scheduled for action and simultaneously send a copy by first-class mail to each affected applicant, and also to the state and appropriate c.h.p. agency, to the Department of Elder Affairs, if relevant pursuant to 15, and to any affected duly registered ten taxpayer group; provided, however, that the Program Director shall be authorized to follow the procedures set forth in 44.2 to 44.4 for any unique application which he determines requires a full staff summary.

44.6 Submission of Staff Report and Comments to the Council

The Commissioner shall cause a copy of the staff report on each application together with a copy of any comment to it filed in accordance with 44.4 to be transmitted to the Council prior to its taking action on said application.

45. ROLE OF APPLICANTS IN REVIEW

The opportunity for comment set forth in 40.1 shall be available to an applicant with respect to comparable applications, but not with respect to his

own application. Sections 43.1 to 43.3 shall govern the manner of making such comment and of providing copies to each affected applicant, to the affected c.h.p. agencies, to the Department of Elder Affairs, if relevant pursuant to 15, and to any concerned ten taxpayers. With respect to its own application, an applicant may seek to convince the Department of the appropriateness of taking favorable action on its application in the following ways:

(1) by submitting material supporting its application under 31.3 and 31.4;

(2) by requesting public hearing under 41.2 as a manner of bringing to the Department's attention public opinion favorable to approval of its application;

(3) by filing written comments to the staff's report under 44.4; and

(4) by making an oral presentation at the Department meeting at which its application is to be considered in accordance with 51.

46-49 (Reserved for Possible Future Use)

DEPARTMENT ACTION

50. DEPARTMENT ACTION GENERALLY

50.1 Department Action

Except as provided in 50.2 the Department shall take action under parts 52 to 55 on every application for determination of need within one hundred and twenty (120) days after the filing day for such application; provided, that, in the case of a regular application, where such action is preliminary or tentative under part 52, the applicant shall be assured of final action not more than eight (8) months after said filing day, except where such action is precluded by the requirements of G.L. c. 30, ss. 61 and 62 (the Environmental Impact Law) and the regulations promulgated thereunder by the Executive Office of Human Services. (See 16 as well as 34.3 and 34.6 regarding amendments).

50.2 Department Action - Unique Application

The Department shall take action under parts 52 to 55 on every Unique Application for which the abbreviated procedures specified in 44.5 apply within sixty (60) days after the filing day for such application; provided, that, where such action is preliminary or tentative under part 52, the applicant shall be assured of final action not more than four (4) months after said filing day. (See 34.3 and 34.6 regarding Mandatory Amendments).

50.3 Prerequisites for Department Action

Except in the case of an emergency application, the Department shall not act on an application under parts 52 to 55, unless (A) the application and any amendments thereto have been on file with the Department for at least thirty (30) days, and the applicant has provided copies in requisite number to each appropriate regional c.h.p. agency, to the state c.h.p. agency, and, to the Department of Elder Affairs, if relevant pursuant to 15; (B) a public hearing has been held under part 41

if requested by the applicant, by any c.h.p. agency, by the Department of Elder Affairs, or by any ten taxpayers; and (C) each such agency and any such ten taxpayers have been afforded the opportunity for comment required under parts 40, 42, 43 and 44 or such period for comment has been waived.

50.4 Waiver of Right

The right to action by the Department within one hundred and twenty (120) days after the filing day for an application may be waived by the applicant by a statement in writing to the Program Director and shall be deemed to have been waived by an applicant by the filing of an amendment under part 34. Notwithstanding a waiver hereunder, the Department shall act on the affected application in a reasonable manner and shall not withhold a final action for more than eight (8) months after the date on which any amendment or waiver has been filed.

51. DEPARTMENT MEETINGS FOR ACTION ON APPLICATIONS

51.1 Nature of Meetings

In accordance with G.L. c. 17, s. 3, the Department shall meet upon the call of the Commissioner or of any four members at least once a month, usually at Room 208, 600 Washington Street, Boston. Insofar as such meetings concern action upon applications for determination of need, they are not adjudicatory in nature, but are rather ordinary business sessions of a government agency. Meetings shall be announced in advance and shall be open to the public and the press, subject to the provisions of the state's "open meeting law" (G.L. c. 30A, s. 11A). The Commissioner or his designee shall preside at every meeting of the Department. When a designee of the Commissioner presides in the Commissioner's absence, he shall have all of the powers and duties of the Commissioner under this part.

51.2 Meeting Agenda: Notice Thereof

For the purpose of the determination of need program, at least seven

(7) days before every Department meeting, the Commissioner shall set the agenda for such meeting, subject to the review of the Council at the meeting. All applications shall be designated on the agenda as either category 1 or category 2 and shall be considered by the Council in the manner provided in 51.2 and 51.6. No application shall be subsequently added to an agenda, except upon consent of the applicant, any other affected applicant, the state and appropriate regional c.h.p. agency, the Department of Elder Affairs, if relevant pursuant to 15, and any affected ten taxpayers group. An application, however, may be deleted from an agenda at any time by the Commissioner or by the Council. Not later than five (5) days before a meeting, the Commissioner shall cause notice of the agenda to be given orally or sent by mail to each affected applicant, c.h.p. agency, the Department of Elder Affairs, and affected ten taxpayer groups.

51.3 Postponements

An applicant shall have the right to request a postponement of consideration of its application, which request shall be granted unless the Commissioner determines that granting the request would prejudice some other applicant, would adversely affect the position of the state or appropriate regional c.h.p. agency or any affected ten taxpayer group, or that the application has been postponed previously and that another postponement is not likely to bring the matter to conclusion. While any other party may request postponement of the consideration of a particular application, said request will rarely be granted and may be granted only if the Commissioner determines that the request is for good cause and that failure to grant the request will significantly prejudice the party making the request from having its position considered by the Council. A request for postponement under this section may be made orally to the Program Director or to the Commissioner's office.

51.4 Material for Department Consideration

Prior to the meeting at which an application is being considered, each member of the Council shall receive a copy of the staff report on such application, if any, and any comments on such application or on such staff report filed in a timely and proper manner by a c.h.p. agency, the Department of Elder Affairs or by any affected ten taxpayer groups, together with such other material as the Program Director deems relevant.

51.5 Consideration of Category #1 Applications

An application which is designated on the agenda as "category #1" is one where the recommendation by the staff in its staff summary has been agreed to by the applicant and by all other parties commenting on the application. Action by the Council regarding "category 1" applications will ordinarily be taken without any oral presentation from the staff or from any other party; provided, however, that Council members shall be authorized to seek clarificationn of any aspect of any "category 1" application from any party; and, provided further that the Commissioner or the Council may cause a "category 1" application to be treated as a "category 2" application if he or they determine that full discussion of the application would aid the Council in making its determination.

51.6 Consideration of Category #2 Applications

An application which is not designated on the agenda as "category #1" shall be a "category #2" application. As such, it shall be considered by the Council in accordance with the following procedures:

1. Unless the Commissioner directs otherwide, consideration shall begin with an oral presentation by the Program Director or some other member of the staff.
2. Any affected ten taxpayer group, the appropriate regional c.h.p. agency, the state c.h.p. agency, the Department of Elder Affairs, and the applicant shall then be entitled to make an oral presentation of not greater than 10

minutes in length. The order of presentation may be varied by the Commissioner.

3. Council members may ask unlimited questions of the staff or of any party to the proceedings.

All parties are encouraged to utilize the time they are allocated for oral presentation to focus on those considerations about which there are differences of opinion as reflected in the staff summary and comments to the staff summary submitted under 44.4.

51.7 Introduction of New Material

If an applicant seeks to introduce either written or oral material which may have an effect on the determination and which the Program Director indicates was not submitted to the Department prior to preparation of the staff report and in accordance with 34.2, the Council may table consideration of the application until such time as the staff and, if the Council deems it appropriate, the state or regional c.h.p. agency and the Department of Elder Affairs, if relevant pursuant to 15, have had an opportunity to analyze the new material. (See 34.3 and 34.6 regarding Mandatory Amendments).

51.8 Rulings at Department Meetings

In the course of consideration of an application under parts 52 to 55, the Commissioner shall make any ruling which may be necessary. Any such ruling shall be the ruling of the Department unless reversed by the Council upon motion duly made, seconded, and voted.

51.9 Official Record of Department Action

Following every meeting at which the Department acts upon an application, the Commissioner shall cause such action, and the reasons therefor in the case of final action, to be reduced to a written statement. The Commissioner may, within his discretion, consult with members of the Council voting for an action in order to confirm that such statement is in accordance with their views, or may place such

statement before the Department for ratification. Such statement, when signed by the Commissioner or by the Secretary of the Department with his approval, shall constitute official record of any action taken at the Department meeting and shall be included in or appended to the minutes of such meeting kept by the Secretary.

52. PRELIMINARY ACTION

52.1 Preliminary Action Generally

The Department, upon consideration of an application on its agenda, may, when it considers final action inappropriate, by motion duly made, seconded and voted, take preliminary action thereon.

52.2 Types of Preliminary Action

As preliminary action upon an application, the Department may:

(1) Make a tentative determination of need as provided in 52.3; or

(2) Require the applicant to file an amendment under 34.3; or

(3) Direct the Program Director:

(a) to notify the applicant and all other participants in the proceeding of its intent to resume consideration of the application at a subsequent meeting;

(b) to conduct further staff review of the application in the manner directed, and to report in writing to the Department within a specified period and subject to such modification of the procedures specified in part 44 as the Council may dictate;

(c) to conduct a public hearing with respect to the application on such subjects and within such period as the Department may specify;

(d) to request further c.h.p. agency, Department of Elder Affairs or ten taxpayers comment upon the application after review on such subjects and within such period

as the Department may specify;

(e) to request additional supporting documentation from the applicant to be submitted on such subjects and within such period as the Department may specify;

(f) to consult with the applicant concerning his willingness to submit an amendment to his application;

(g) to take such other action as, in the opinion of the Department, will facilitate final action on the application.

52.3 Tentative Determination of Need

The Department may make a tentative determination of need on an application, in which case it shall permit the applicant, each c.h.p. agency, the Department of Elder Affairs, if relevant pursuant to 15, and any applicable taxpayer or related applicant to submit comments or objections to the tentative determination of need in a timely and proper manner. Within the limit imposed by 50.1, the period for comment shall extend for not more than sixty (60) days and for not less than ten (10) days, and shall commence upon receipt of written notice from the Program Director. Upon expiration of the period for comment, the Program Director shall cause the application to be placed on the agenda of a subsequent meeting for final action by the Department under 53 or 54.

53. FINAL ACTION: DISMISSAL

53.1 Dismissal Generally

The Department upon consideration of an application on its agenda, may, by motion duly made, seconded, and voted, dismiss such application without making a determination of need.

53.2 Grounds for Dismissal

No application shall be dismissed except on one of the following grounds:

(1) the applicant, in violation of G.L. c. 111, s. 25D, has failed either to file notice of intent or to comply with an order to postpone public solicitation of funds (see parts 20 and 21);

(2) the applicant, for the purpose of securing funds for construction or substantial change in services, has misrepresented the election of the Commissioner not to issue an order under G.L. c. 111, s. 25D (see 21.3);

(3) the applicant has made an improper communication to the Commissioner, the Program Director, or any member of the staff or of the Council (see part 11) or has sought to exert undue influence on any such person or upon a member or employee of a c.h.p. agency;

(4) the applicant has made a false statement or misrepresented a material fact in any oral or written communication to the Department in connection with his application;

(5) the applicant has otherwise failed substantially or repeatedly to comply with the provisions of these or predecessor regulations;

(6) the application is not within the jurisdiction of the Department as specified under part 4.

53.3 Procedures for Dismissal

The Department may dismiss such application, with or without prejudice to submission of a new application, as it deems appropriate. Every dismissal shall be reduced to writing in accordance with 51.8 and shall set forth the reasons relied upon by the Department. Unless stated otherwise therein, a dismissal shall not take effect until notice thereof is received by the affected applicant.

54. FINAL ACTION: DETERMINATION OF NEED

54.1 Determinations Generally

Within eight months of the filing of a regular application for determination of need or of the filing of an amendment thereto and within four months of the filing of a unique application, unless such application is sooner dismissed (see part 53), the Department shall, by motion duly made, seconded, and voted, make a final determination of need, subject to such terms and conditions as it may set in accordance with part 55. (See 34.3, 34.6 and 50.1).

54.2 Objective in Determinations

In making determinations of need, the Department shall have as its objective the appropriate allocation of health care resources and the development of improved systems for health care delivery to the end that adequate health care services shall be made reasonably available to every person within the Commonwealth at the lowest reasonable aggregate cost. No application shall be approved, and no term or condition shall be set, which is not consistent with this objective.

54.3 Factors Considered in all Determinations

In taking final action hereunder, the Department shall consider such of the following factors as it deems relevant to making an appropriate determination of need on a particular application. A finding adverse to the applicant regarding any of these factors shall be sufficient to constitute grounds for denial of an application for determination of need.

(1) Whether the applicant's planning process has been thorough as evidenced by: (a) its documented consideration of transfer agreements, referral mechanisms and alternatives to the proposed projects (including expanding the hours of

utilization of its present service); (b) its investigation of utilization of existing resources in the area and documentation of projected demand for proposed services; and (c) its willingness to involve the appropriate regional c.h.p. agency, concerned local groups and other proximate health care facilities in its planning process.

(2) Whether the project, when completed, will comply with all relevant state and federal standards for approval, licensure or certification.

(3) Whether the existing health care services in the applicable service area are adequately providing the service contemplated by the proposed project so that favorable action on the application would result in a needless duplication of services.

(4) Whether, after using reasonable tools for projecting need including, where relevant, occupancy rates and average lengths of stay, there is need for the project applied for.

(5) Whether the applicant, after having been given the procedural safeguards specified in 54.8, has failed to demonstrate to the satisfaction of the Department that it is suitable and responsible to establish or maintain a health care facility or that the project upon completion is likely to meet the licensure requirements of the Department.

(6) Whether the applicant has demonstrated, in accordance with G.L. c. 30, ss. 61 and 62 and the regulations promulgated thereunder by the Executive Office of Human Services, that, in executing the project, all feasible measures shall be taken to avoid or minimize damage to the environment. (See 16).

(7) Whether the applicant has considered alternative methods of construction design, operating systems and staffing patterns, as well as alternative sources of debt financing, so that the approach chosen is consistent with the Department's objective in making determinations of need. (See 54.2).

(8) Whether the estimated range of capital expenditure and anticipated operating costs for the proposed project are reasonable both in terms of their likely effect on the facility's per diem rate and in terms of their comparison with costs for similar projects.

(9) Whether, in accordance with 54.5, the applicant demonstrates that the project is financially feasible and, if relevant, that the applicant has the capability to complete the proposed project and to operate the facility when completed.

(10) Whether approval of the project is necessary in order to satisfy special geographic factors, to meet acute seasonal variations in population, to meet the needs of a special mix of patients, or to encourage the development of innovative approaches to the delivery of health care services.

54.4 Determination of Projected Service Population

In calculating need, the Department shall, when appropriate, first determine the projected service population of a facility. In doing so, the Department shall calculate the projected service population for the year 1985 by using the University of Massachusetts age specific population projections, the uniform geographic areas adopted by the Executive Office for Administration and Finance, and the most recent available patient origin date for the facility if relevant. The Council shall be authorized to adjust its calculation of the projected service population if it is presented with information submitted in accordance with the regulations which indicate that these figures

are erroneous.

54.5 Determination of Financial Feasibility and Capability

In determining financial feasibility and capability for a proposed project, the Department shall consider those factors which are relevant to an evaluation of a particular applicant's financial ability to complete and operate the project. This determination shall be based on a review of all relevant documents including the following:

(1) Past and present operating and capital budgets;

(2) Projected cash flow statements, and

(3) Present balance sheet.

54.6 Assessment of Health Care Requirements

In making determinations hereunder, the Department shall rely upon such vital statistics and other demographic data, such facility inventories, and such utilization and other health care studies as it deems appropriate and useful, including the Department's Health Data Annual. Any such material relied upon by the Department in making determinations of need shall be kept by the Program Director and shall be subject to inspection and copying by any person or government agency upon request.

54.7 Determinations in Comparative Situations

Whenever, in a comparative situation as described in 30.5, the Department is of the opinion that it cannot properly grant every application involved in the comparison, it shall make any award of services to that applicant or those applicants which best satisfies the objective of the determination of need program set forth in 54.2. Where there is no appreciable difference between or among applications in this regard, the Department shall make the award on the basis of the best supporting documentation and the best record of planning cooperatively with other providers, community groups, and c.h.p. agencies.

54.8 Procedures Concerning Certain Determinations

If the Council intends to make its determination of need predicated on the factors specified in 54.3(5) and if the facts relied upon by the Council are disputed by the applicant, then the following procedures shall be followed:

(1) the Commissioner shall assign a hearing officer to conduct an adjudicatory hearing on the subject;

(2) the hearing shall be held in accordance with the procedures set forth in G.L. c. 30A, s. 11 and the Department's "Rules of Procedure";

(3) consideration of the application shall be tabled until such time as the hearing officer makes his recommended decision;

(4) the Council shall take final action predicated on the facts reported by the hearing officer in his recommended decision.

54.9 Form of Determinations

Every determination, whether affirmative or negative in form, in whole or in part, shall be reduced to writing in accordance with 51.9 and shall set forth the terms and conditions thereof, the reasons therefor, and the reasons for any rejection of specific recommendations filed in a timely and proper manner under part 42, 43, or 45. The conditions set forth in 55.2 may be incorporated in the determination by a reference to 55.2 without setting them forth in full in the determination. Unless stated otherwise therein, a determination shall not take effect until notice thereof (see 56.2) is received by the affected applicant.

55. TERMS AND CONDITIONS UPON DETERMINATIONS OF NEED

55.1 Terms and Conditions Generally

Every determination of need made under 54.1 shall be subject to such terms and conditions as the Department may reasonably prescribe consistent with the objective of the determination of need program (see 54.2). The holder of a determination of need shall comply with all

statutes and regulations relating to the construction, licensing, and operation of health care facilities. No determination shall remain in force unless the holder complies with these requirements and with each term and condition the Department may set. (See 57).

55.2 Conditions Upon Every Determination

Whenever the Department under 54.1 determines that need exists for a project, such determination shall be made upon at least the following conditions:

(1) during the period of any appeal to the Health Facilities Appeal Board, the holder shall not undertake the construction or substantial change in services authorized by such determination, except upon the written permission of the Department, which permission shall be granted only under terms acceptable to all parties to the appeal;

(2) such determination shall be valid authorization only for the person to whom issued, or the government agency to which issued, and may be transferred only upon the written permission of the Department granted for good cause shown and not otherwise; (see 58)

(3) except as provided in 55.2(6) and (7), such determination shall be valid authorization only for the project for which made and only for the estimated range of capital expenditure and range of financing charges approved.

(4) such determination shall be valid authorization for two (2) years or such other period as the Department may specify. Within such period of authorization, the holder shall make substantial progress toward completion of its project which, in the case of any project involving construction, shall mean that physical constuction of the project has actually begun. The Department, for good cause shown and not otherwise,

may in writing grant an extension of the period of authorization.

(5) notwithstanding the period of the determination pursuant to paragraph (4), if the holder is a person and is subject to the requirements of filing final architectural plans and specifications pursuant to G.L. c. 111, s. 51 or s. 71, and if any construction is involved, the determination shall not remain in force longer than nine (9) months, unless within said nine (9) months the holder has filed such final architectural plans and specifications; provided that the Department, for good cause shown and not otherwise, may grant an extension of such period; and

(6) within three (3) months from receipt of approval by the Department of the plans and specifications referenced in 55.2(5), unless extended for good cause shown, the applicant shall submit to the Program Director firm figures specifying the precise capital cost of construction of the project and the actual anticipated finance charge, if any, of the project approved. These figures must be no greater than those approved by the Council after any increase in cost predicated on the actual rate of inflation, if any, from the date of application has been taken into account. The "actual rate of inflation" shall be based on the index which is the same inflation index utilized by the Rate Setting Commission. The figures supplied must be documented by executed financing agreements and construction contracts. These figures, when approved, shall constitute and be referred to as "the approved project cost" and "approved finance charge" and shall be submitted by the Commissioner or his designee to the Rate-Setting Commission.

(7) A holder may be allowed a limited adjustment to the "approved

project cost" for contingencies. This adjustment may not exceed five percent (5%) of the approved project cost and shall be allowed only for contingencies which are not reasonably within the control of the holder and for which the inflationary adjustment contained in 55.2(6) is not relevant. Any holder seeking an adjustment hereunder shall submit a written request and justification for said adjustment to the Rate Setting Commission which shall determine the appropriateness of granting the adjustment.

55.3 Conditions Discretionary with Department

When making a determination of need under 54.1 the Department may prescribe, in addition to the conditions under 55.2, any other condition reasonably related to the scope of the project and within the control of the applicant and consistent with the objective of making adequate health care services reasonably available to every person within the Commonwealth at the lowest reasonable aggregate cost, including any of the following: demolition of an obsolete structure to be vacated upon completion of construction; development of a plan for provision of alternative services if a service is being curtailed; imposition of any condition necessary to comply with G.L. c. 30, s. 61.

56. NOTICE OF DEPARTMENT ACTION

56.1 Notice of Interlocutory Action

Whenever the Department takes preliminary or tentative action upon an application for determination of need, it shall be the responsibility of the Program Director, within fourteen (14) days of such action, to send appropriate notice in writing to each affected applicant, to each appropriate regional c.h.p. agency, to the state c.h.p. agency, to the Department of Elder Affairs if relevant pursuant to 15, and to any applicable ten taxpayers. Such notice shall, in every instance, set

forth the action taken and the rights and duties of each such person and agency with respect to said action.

56.2 Notice of Final Action

Whenever the Department takes final action upon an application for determination of need, it shall be the responsibility of the Program Director to send appropriate notice in writing to each affected applicant, to each appropriate regional c.h.p. agency, to the state c.h.p. agency, to the Department of Elder Affairs, if relevant pursuant to 15, and to any applicable ten taxpayers group. Such notice shall, in every instance set forth the final action taken and the reasons therefor, the terms and conditions of any determination of need, the reasons for any rejection of a timely and proper specific recommendation, and the rights and duties of each person and agency notified with respect to said action. The Program Director within his discretion, may send with any notice a copy of the official record of final action and in such event, may omit from such notice matters dealt with in the official record. The Program Director shall endeavor to send notice within seven (7) days of final action, but in no event shall more than twenty-one (21) days be allowed for such purpose.

57. REVOCATION OF DETERMINATIONS OF NEED

The Department shall be authorized to revoke a determination of need for failure of an applicant to comply with all terms and conditions of the determination of need established in accordance with part 55. If the Program Director has reason to believe that a determination of need should be revoked:

(1) He shall make whatever preliminary inquiry of the holder of the certificate of need he deems appropriate in the situation in order to clarify whether a term or condition has not been complied with and whether such a failure to comply is justifiable.

(2) If no satisfactory explanation is forthcoming, he shall

cause the matter to be placed on the agenda of a Council meeting for its consideration.

(3) He shall send written notice of the action he intends to recommend to the Council to the holder and the state and regional c.h.p. agencies and, if relevant pursuant to 15, the Department of Elder Affairs at least twenty-one (21) days prior to the Council meeting at which the matter will be considered. The notice shall specify the reasons for the Program Director's recommendation and indicate that the holder will be afforded an opportunity to address the Council concerning its action.

(4) At the relevant meeting, the Council shall afford the holder and the state and regional c.h.p. agencies and, if relevant pursuant to 15, the Department of Elder Affairs opportunity to speak. The Council shall be authorized to take such action as it deems fair and appropriate in the situation.

58. TRANSFERS OF OWNERSHIP: PROCEDURES

Whenever a holder of a certificate of need seeks to transfer ownership of the certificate of need for "good cause" in accordance with part 55.2(1), the following procedures shall apply:

(1) The holder shall submit to the Program Director an original and 12 copies of a brief written statement requesting transfer of ownership which statement shall contain at least the following information:

(a) a brief description of the project as approved, including project number, date of approval, precise terms of approval. identity of original owners;

(b) progress of project to date;

(c) identity of proposed transferees

(d) terms of proposed transfer;

(e) reason for proposed transfer.

(2) The Program Director shall be authorized to obtain whatever additional information is necessary and shall make a recommendation to the Council as expeditiously as possible.

(3) The Program Director shall notify the holder of the date of the Council meeting at which the proposed transfer will be considered at least 5 days prior to the said meeting.

(4) The Council shall afford the holder the opportunity to make a brief presentation to the Council prior to its taking action with regard to the proposed transfer.

59-69 (Reserved for Possible Future Use).

OTHER PROVISIONS

70. ADMINISTRATIVE REVIEW

70.1 Before the Health Facilities Appeals Board

Any determination of need made pursuant to G.L. c. 111, s. 25C, is subject to administrative review by the Health Facilities Appeals Board in the manner and under the terms set forth in G.L. c. 111, s. 25E. Proceedings before said Board are governed by rules of procedure adopted by the Board and available at the Board offices, presently located at Center for Law & Health Sciences, 209 Bay State Road, Boston, 02215. The Department advises every applicant, c.h.p. agency, the Department of Elder Affairs, and ten taxpayers that, whenever such person, agency, or group is not satisfied with an action of the Program Director, Commissioner, or Department during the pendency of an application, it should make its objection in writing to the Program Director; otherwise, upon appeal, the Department will argue that complaint on such ground has been waived by the complainant's failure to raise its objection with the Department and to allow the Department opportunity to respond thereto. Communication to the Department with regard to an appeal shall be directed to its General Counsel, at Room 218, 600 Washington Street, Boston 02111.

70.2 Within Department

Any applicant for determination of need aggrieved by the action of the Program Director in revoking acceptance of an application or amendment thereto; or by dismissal of an application or by a determination of need upon an application filed under G.L. c. 111, ss. 51, 51A, or c. 111B, ss. 6, or 6A, or c. 155, s. 2B may be accorded an opportunity for administrative review within the Department upon written request filed with the Commissioner at Room 214, 600 Washington Street, Boston, within fourteen (14) days of notification of such action, such dismissal,

or such determination. An aggrieved applicant may, at its election, dispense with such review within the Department and seek whatever judicial remedy may be available.

(1) Upon a timely request for review of the action of the Program Director in refusing to accept or revoking acceptance of an application or an amendment, the Commissioner shall be authorized to assign an attorney, employed by the Department and not otherwise involved in the determination of need program, to review such action for legal error and to report thereon to the Department. Upon consideration of such report, the Department shall reverse or modify the action complained of it it concludes such action was in abuse of the discretion committed to the Program Director, in violation of lawful procedures, or otherwise not in accordance with applicable provisions of law.

(2) Upon a timely request for review of a determination of need, where no appeal lies to the Health Facilities Appeals Board, the Commissioner shall be authorized to assign an attorney, employed by the Department and not otherwise involved in the determination of need program, to conduct a review of such determination upon the record and, thereafter, to make a report to the Department; provided, however, that, where the record is inadequate to make findings upon the allegations raised in the appeal, he shall conduct an evidentiary hearing under the applicable provisions of the Department's "Rules of Procedure". The report prepared for the Department shall contain proposed findings of fact and proposed rulings of law sufficient to dispose of the appeal. Upon consideration of such report, the Department shall set aside the determination

complained of if it concludes there has been an abuse of discretion, violation of lawful procedure, or other violation of applicable provisions of law. If the final decision of the Department is to reverse the determination, the application shall be reinstated and a new determination of need shall be made.

TRANSITION

These regulations shall apply in full to applications accepted for filing on or after March 1, 1975 provided that applicants shall, until May 1, 1975, be automatically permitted to file any amendments they consider necessary in order to conform their applications to these regulations. In the case of applications accepted for filing on prior filing days under the "Massachusetts Determination of Need Regulations" adopted June 26, 1973, these regulations shall apply on and after May 1, 1975, unless prior thereto the Department has disposed of said application; provided that each affected applicant shall have until June 1, 1975 in which to amend his application if he so desires. Said "Massachusetts Determination of Need Regulations" adopted June 26, 1973, are hereby repealed, effective midnight, April 30, 1975, and determinations made thereunder shall continue in force pursuant to the applicable provisions of these regulations.

APPENDICES

APPENDIX I

The following are verbatim reprints of the principal provisions of the General Laws conferring responsibility upon the Department of Public Health for making determinations of need:

(A) G.L. Chapter 111, SS. 25B to 25G

S. 25B - Definitions

In this section and sections twenty-five C to twenty-five G, inclusive, the following words shall have the following meanings:

"Appropriate regional comprehensive health planning agency," the regional agency designated pursuant to the provisions of section three hundred and fourteen (b) the Federal Public Health Service Act, which has geographical jurisdiction of the area served by a health care facility.

"Construction", construction of a new health care facility; the alteration of, expansion of, making of major repairs to, remodeling of, renovation of or replacement of an existing health care facility; the initial, additional or replacement equipping of any such facility; the acquisition of consulting, architectural, and engineering services, and of site, when such acquisition is directed toward an undertaking sufficiently specific to constitute part of the subject matter of an application for determination of need under section twenty-five C.

"Department", the department of public health; provided, however, that no member of the public health council who is an owner, in whole or in part, an officer or an employee of a health care facility, or who bears any other fiduciary relationship to such a facility, shall participate in any decision which would substantially affect the facility to which he is related.

"Health care facility", a hospital, institution for the care of unwed mothers or clinic, as defined in section fifty-two; a long-term care facility, which is an infirmary maintained in a town, a convalescent or nursing home, a rest home or a charitable home for the aged, as defined in section seventy-one; a public medical institution, which is any medical institution, and, after December first, nineteen hundred and seventy-two, any institution for the mentally ill or retarded, supported in whole or in part by public funds, staffed by professional, medical and nursing personnel and providing medical care, in accordance with standards established through licensing, approval or certification for participation in the programs administered under Titles 18 and 19 of the Federal Social Security Act, by the department; and any part of such facilities; provided, however, that "health care facility" shall not include a facility operated by a religious group relying solely on spiritual means through prayer and healing and in which health care by or under the supervision of doctors of medicine, osteopathy, or dentistry is not provided.

"State comprehensive health planning agency", the agency designated pursuant to the provisions of section three hundred fourteen (a) of the Federal Public Health Service Act.

"Substantial capital expenditure", the expenditure of a sum of money, including an expenditure for the lease of capital equipment at the purchase value of such equipment, for construction of a health care facility which exceeds, or may reasonably be regarded as leading to an expenditure for construction in excess of, one

hundred thousand dollars for an undertaking sufficiently specific to constitute the subject matter of an application for determination of need under section twenty-five C.

"Substantial change in services", a change in kind, rather than degree, of service as further defined by the department; provided, however, that any increase in bed capacity of more than four beds shall be a substantial change in service; and, provided further, that any decrease in the level of service offered by a nursing, convalescent or rest home, and any change in service provided by a hospital to persons who are not admitted as inpatients, which does not involve a substantial capital expenditure shall not be subject to the provisions of sections twenty-five C to twenty-five G, inclusive.

S. 25C - Determination of need; policy; application; filing; fee; emergencies; procedural requisites; time limits; conditions

Notwithstanding any contrary provision of law, no person or agency of the commonwealth or any political subdivision thereof shall make substantial capital expenditures for construction of a health care facility or substantially change the services of such a facility unless there is a determination by the department that there is need therefor.

The department, in making any such determination, shall encourage appropriate allocation of private and public health care resources and the development of alternative or substitute methods of delivering health care services so that adequate health care services will be made reasonably available to every person within the commonwealth at the lowest reasonable aggregate cost.

Applications for such determination shall be filed with the department, together with such other forms and information as shall be prescribed by, or acceptable to, the department. A duplicate copy of such application, together with supporting documentation therefor, shall be a public record and kept on file in the department. The department may require a public hearing on any such application. A reasonable fee, established by the department, shall be paid upon the filing of such application; provided, that in no event shall such fee exceed one tenth of one percent of the capital expenditures, if any, proposed by the applicant.

Except in the case of an emergency situation determined by the department as requiring immediate action to prevent further damage to the public health or to a health care facility, the department shall not act upon an application for such determination unless (a) the application has been on file with the department for at least thirty days, (b) the state and appropriate regional comprehensive health planning agencies and, in the case of long-term care facilities only, the department of elder affairs, have been provided copies of such application and supporting documents and given reasonable opportunity to comment thereon, and (c) a public hearing has been held thereon when requested by the applicant, the state or appropriate regional comprehensive health planning agency, or any ten taxpayers of the commonwealth. The department may establish filing periods for such applications; and in such event shall not act only upon an individual application filed during such a period when such action would implicitly decide any other application filed during such period.

The Department shall approve or disapprove, in whole or in part, or otherwise act upon every such application in a timely manner, but in any event within one hundred and twenty days after filing. Such determinations of need shall be made in writing, setting forth the reasons therefor, and, when any such determination is inconsistent with specific recommendations filed in a timely manner with the department by any person or group empowered to request a public hearing by clause

(c) of the preceding paragraph, shall specifically discuss such inconsistent reasons. Every determination of need and the reasons therefor shall constitute a public record and be filed in the department.

The department shall stipulate the period during which a determination of need shall remain in effect, which in no event shall originally be longer than three years but which may be extended by the department for cause shown. Any such determination shall continue to be effective only upon the applicant (a) making reasonable progress toward completing the construction or substantial change in services for which need was determined to exist, (b) complying with all other provisions of law relating to the construction, licensure, and operation of health care facilities, and (c) complying with such further terms and conditions as the department reasonably shall require.

The department shall notify the secretary of elder affairs forthwith of the pendency of any proceeding, of any public hearing and of any action to be taken under this section on any application submitted by or on behalf of any long-term care facility.

S. 25D - Financing; notice of intent; necessity of application for determination of need; acceptance of gifts; governmental bodies as applicant; report

Every person, at least thirty days prior to making a public solicitation of funds or otherwise securing financing for construction of a health care facility or a substantial change in the services of a facility, shall file written notice of his intent to do so with the department. In the case of a solicitation of funds from the general public, the department may require such person to file an application for a determination of need for such construction or substantial change in services and to postpone any such public solicitation of funds until such application has been acted upon by the department and such need has been found to exist; provided, however, that failure of the department to comment upon a notice of intent shall not be construed to constitute a determination that such need exists. Nothing in this section shall be construed to prohibit any person or agency subject to sections twenty-five C to twenty-five G, inclusive, from accepting gifts, and the provisions of this section shall not apply to any such solicitation or securing of financing where the undertaking to be funded is not sufficiently specific to constitute the subject matter of an application for determination of need under section twenty-five C.

Each agency of the commonwealth and its political subdivisions desiring to make substantial capital expenditure for construction of a health care facility or to substantially change the services of such a facility shall make application for determination of need therefor pursuant to section twenty-five C, and the department shall transmit a report of its determination thereon to the agencies empowered to recommend and to make appropriations of money for the applicant agency.

S. 25E - Administrative appeal; hearing; decision; judicial review

Any person or agency filing an application for determination of need or empowered to request a public hearing under the provisions of section twenty-five C, and aggrieved by the determination thereof may, within fourteen days after such determination, file an appeal to the health facilities appeals board established by section one hundred and sixty-six of chapter six. The appellant shall include with any such appeal a certificate stating that said appeal is not knowingly interposed for delay.

The board in considering any such appeal shall restrict itself to a review of

materials on file with the Department and to consideration of whether the determination appealed from was an abuse of discretion, without observance of procedure required by law or in violation of applicable provisions of law. In the event the board determines that the materials available to it are inadequate to allow the required consideration, it may order a hearing on the appeal. Such appeal shall be heard by the board or its designated hearing officer within thirty days after its filing. If the matter is heard by a hearing officer, such officer, within thirty days after hearing, shall submit a recommended decision, reasons therefor and a determination of each issue of fact or law incident to said recommended decision to the board. The board shall, within sixty days after filing of the appeal, issue a final decision, either denying the appeal, in which case said decision shall be subject to judicial review under the provisions of section fourteen of chapter thirty A to the extent they are not inconsistent with the provisions of this section, or order the matter remanded to the department for action consistent with the opinion of the board. All proceedings of the board shall be subject to the provisions of chapter thirty A to the extent they are not inconsistent with the provisions of this section.

S. 25F - Rules and regulations

The department and the health facilities appeals board are hereby authorized and directed to promulgate rules and regulations necessary for the implementation of sections twenty-five C to twenty-five G, inclusive.

S. 25G - Enforcement; jurisdiction; effect of violations

The superior and supreme judicial courts shall have jurisdiction, upon request of the department, the appropriate regional comprehensive health planning agency, or of any ten taxpayers in the commonwealth to enforce the provisions of sections twenty-five C to twenty-five G, inclusive. Any violation of such provisions also shall constitute grounds for refusing to grant or renew, modifying or revoking the license of a health care facility or of any part thereof.

(B) G.L. Chapter 111, S. 51 - 2ND PAR.

S. 51 - Hospitals, institutions for unwed mothers or clinics; licensing

No original license shall be issued to establish or maintain a hospital, an institution for the care of unwed mothers or a clinic, unless there is determination by the department that there is need for such a facility at the designated location.

(C) G.L. Chapter 111B, SS. 6 and 6A

S. 6 - License to establish and maintain facility; requirements and standards; filing of data; injunction; inspection; admission and treatment of patients

The department shall issue for a term of two years, and may renew for like terms, a license, subject to revocation by it for cause, to any person, other than a licensed hospital, a department, agency, or institution of the federal government, the commonwealth or any political subdivision thereof, deemed by it to be responsible and suitable to establish and maintain a facility and to meet applicable licensure standards and requirements. In the case of a department, agency or institution of the commonwealth or any political subdivision thereof, the department shall grant approval to establish and maintain a facility for a term of two years, and may renew such approval for like terms, subject to revocation by it for cause.

The department shall promulgate rules and regulations establishing requirements and standards for licensing and approval of facilities. Such requirements and standards shall include, but shall not be limited to:-

(1) the need for the facility in the community;
(2) the health standards to be met by the facility;
(3) misrepresentation as to the treatment afforded patients at a facility;
(4) licensing fees, application and revocation procedures, and the procedures for evaluation of treatment programs.

The department may establish different requirements and standards for different kinds of facilities, and may impose stricter requirements and standards in contracts with facilities and services made pursuant to section five.

Each facility shall be individually licensed or approved.

Each facility shall file with the department from time to time, such data, statistics, schedules or information as the department may reasonably require for the purposes of this section, and any licensee or other person operating a private facility who fails to furnish any such data, statistics, schedules or information as required, or who files fraudulent returns thereof, shall be punished by a fine of not more than five hundred dollars.

The department, after holding a hearing in accordance with chapter thirty A, may refuse to grant, suspend, revoke, limit or restrict the applicability of or refuse to renew any license or approval for any failure to meet the requirements of its rules and regulations or standards concerning such facilities.

No person, excepting a licensed hospital, a department, agency or institution of the federal government, the commonwealth or any political subdivision thereof, shall operate a facility without a license and no department, agency or institution of the commonwealth or any political subdivision thereof shall operate a facility without approval from the department pursuant to this section. The superior court shall have jurisdiction in equity to restrain any violation of the provisions of this section and to take such other action as equity and justice may require to enforce its provisions. Whoever knowingly establishes or maintains a private facility without a license granted pursuant to this section shall, for a first offense, be punished by a fine of not more than five hundred dollars and for each subsequent offense by a fine of not more than one thousand dollars or by imprisonment for not more than two years, or both.

Each facility shall be subject to visitation and inspection by the department and the department shall inspect each facility prior to granting or renewing a license or approval. The department may examine the books and accounts of any facility if it deems such examination necessary for the purpose of the section. The department is hereby authorized to make a complaint to a district court, to a justice of any court of record or to a magistrate authorized to issue warrants, who may thereupon issue a warrant to any officers or employees or the department authorizing them to enter and inspect at reasonable times, and to examine the books and accounts of any private facility refusing to consent to such inspection or examination by the department which the department has reason to believe is operating in violation of the provisions of this chapter. Refusal by the operator or owner to allow such entry and inspection pursuant to such a warrant shall for a first offense be punishable by a fine of not more than one hundred dollars and for each subsequent offense by a fine of not more than one thousand dollars or by imprisonment for not more than two years, or both.

The director may require facilities or services which contract with the com-

monwealth, pursuant to clause (1) of section five, to admit as an inpatient or outpatient any person to be afforded treatment pursuant to this chapter.

The department shall promulgate rules and regulations governing the extent to which the circumstances in which facilities and services may be required to treat any person as an inpatient or outpatient pursuant to this chapter, except that no licensed hospital with an emergency service shall refuse any person treatment for intoxication or alcoholism unless the person's need for treatment is not immediate and the hospital has at the time exceeded its reasonable treatment capacity for intoxication and alcoholism.

S. 6A - Halfway houses for alcoholics; licensing or approval; rules and regulations; filing of information; inspection; remedies; penalties

The department shall issue for a term of two years, and may renew for like terms, a license, subject to revocation by it for cause, to any person, other than a department, agency or institution of the federal government, the commonwealth or any political subdivision thereof, deemed by it to be responsible and suitable to establish and maintain a halfway house for alcoholics. In the case of a department, agency or institution of the commonwealth or any political subdivision thereof, the department shall grant approval to establish and maintain a halfway house for alcoholics for a term of two years, and may renew such approval for like terms, subject to revocation by it for cause.

The department shall promulgate rules and regulations establishing requirements and standards for licensing and approval of halfway houses for alcoholics. Such rules and regulations shall not, however, establish educational nor professional requirements for the staff of any halfway house for alcoholics. The requirements and standards established in the rules and regulations shall include, but shall not be limited to:

(1) The need for the halfway house;
(2) The range of therapeutic programs designed to meet the needs of the residents of the halfway house;
(3) Licensing fees, application and revocation procedures.

Each halfway house for alcoholics shall be individually licensed or approved.

Each halfway house for alcoholics shall file with the department from time to time, such data, statistics, schedules, or information as the department may reasonably require for the purposes of this section, and any licensee or other person operating a halfway house for alcoholics who fails to furnish such data, statistics, schedules or information as required, or who files fraudulent returns thereof, shall be punished by a fine of not more than one hundred dollars.

The department, after holding a hearing in accordance with chapter thirty A, may refuse to grant, suspend, revoke, limit or restrict the applicability of any license or approval or refuse to renew any license or approval for any failure to meet the requirements of its rules, regulations or standards concerning such halfway houses.

No person, excepting a department, agency or institution of the federal government, the commonwealth or any political subdivision thereof, shall operate a halfway house without a license and no department, agency or institution of the commonwealth or any political subdivision thereof shall operate a halfway house for alcoholics without approval from the department pursuant to this section. The superior court shall have jurisdiction in equity to restrain any violation of the provisions of this section and to take such other action as equity and justice may require to enforce its provisions.

Whoever knowingly establishes or maintains a halfway house for alcoholics without a license granted pursuant to this section shall be punished by a fine of not more than five hundred dollars.

Each halfway house shall be subject to visitation and inspection by the department and the department shall inspect each facility prior to granting or renewing a license or approval. The department may examine the books and accounts of any facility if it deems such examination is necessary for the purpose of this section. The department is hereby authorized to make a complaint to a district court, to a justice of any court of record or to a magistrate authorized to issue warrants, who may thereupon issue a warrant to any officers or employees of the department authorizing them to enter and inspect at reasonable times, and to examine the books and accounts of any halfway house refusing to consent to such inspection or examination by the department which the department has reason to believe is operating in violation of the provisions of this section.

(D) G.L. Chapter 155, S. 2B

S. 2B - Clinics, hospitals, rest homes, etc., approval of articles of organization and amendments

Before approving articles of organization in connection with the proposed incorporation of a dispensary or clinic, hospital, sanatorium, convalescent or nursing home, infirmary, rest home, or like institution requiring a license from the department of public health or before approving an amendment to such articles of organization of an existing corporation which will give it such power, the state secretary shall refer such articles or amendments thereto to the department of public health, which shall immediately make an investigation as to the applicants for incorporation, the corporation or the petitioners, as the case may be, and the purposes thereof, and of all material facts, including facts tending to show that the probable purpose is to cover any illegal business, or that the applicants, corporation or petitioners are not suitable persons from lack of financial ability or from any other cause, and facts as to the present need for an organization with such purposes at the time and place and with respect to the special circumstances set forth in such articles, amendment or petition. The department of public health shall give the applicant or applicants a public hearing, notice of which shall be published once a week for three successive weeks in some paper published in the county where the corporation has or is to have its principal office or rooms, and if said office or rooms are to be in Boston, in some Boston daily paper, the last publication to be at least three days before the day set for the hearing. After such hearing, the commissioner of public health shall make findings of fact as to such purposes, need and suitability, and in accordance therewith shall approve or disapprove such articles, amendment or petition. Thereupon he shall report such findings and action to the secretary. If the commissioner of public health approves the articles, amendment or petition, the secretary shall accept the findings of fact made and reported to him by the commissioner of public health. If the commissioner of public health disapproves the application, the secretary shall refuse to approve the articles of organization, amendment or petition, as the case may be. If he refuses, the applicant or applicants may appeal to the superior court, which shall hear the case and finally determine whether or not the articles of organization or an amendment thereof shall be approved. For the purposes of such appeal, failure by the department of public health to report to the secretary within three months after the date of reference to it by him of articles, an amendment or petition, as herein provided, shall be deemed to be a report to him with disapproval by the commissioner of public health, and failure of the secretary to approve or disapprove articles, an amendment or petition, within four months after their original submission to him by the applicant or applicants shall be deemed to be a refusal by him to approve them. For purposes of this section,

the word "clinic" shall have the same meaning as is set forth in section fifty-two of chapter one hundred and eleven, except that it shall not include a professional corporation established under chapter one hundred and fifty-six A, unless such corporation is actually operating a clinic.

APPENDIX II

Summary of the Relationship of Determination of Need to Other Regulatory Steps in the Establishment of a Health Care Facility

Determination of need is the first of several steps in the establishment of a health care facility. When an applicant receives an affirmative determination, he begins a process which frequently will later include approval of construction plans and specifications, licensure under state law, certification for participation in federally-supported programs, and the setting of a rate for services purchased by the government. An applicant's success in establishing a health care facility will depend, in significant part, upon a proper understanding of the relationship of determination of need to construction plan approval, licensure, certification, and rate-setting. The Department urges prospective applicants to view these various governmental approvals as part of one interrelated process and, therefore, to familiarize themselves with the regulations governing each subsequent step in the process prior to applying for a determination of need.

The first step to a proper understanding of the relationship among the various approvals is to recognize that the terms and conditions of a determination of need, once accepted by the applicant, determine the scope of the project for all subsequent purposes. From the standpoint of services, the determinations is only for those services expressly included and for no others; hence, the applicant should expect to receive construction plan approval, licensure, and certification only for those services which he was authorized to provide under his determination of need.

The determination from the standpoint of the capital expenditure also sets the upper limit upon the amount which the applicant can spend, and expect reimbursement for, in carrying out the project. It is not, however, a guarantee that the applicant will be allowed the full amount of the authorized capital expenditure, for the Rate Setting Commission has the power to disallow any expenditure which is unreasonable even if within the authorized amount. The applicant in carrying out his project therefore should be careful not only to stay within the authorized limit but also to be sure all expenditures within the limit are in accordance with Rate-Setting Commission policies.

Also vital to a proper understanding of the relationship of determination of need to other government programs is the recognition that, when the Department grants an application in whole or in part, it is bestowing a public trust upon the applicant and it will expect him to justify that public trust in carrying out the project. This is the case since every person who is ultimately to be licensed must show himself suitable and responsible to care for patients, to deal with patients and their families, and to receive public monies. A grant of a determination of need, therefore, is made only after preliminary assessment of the applicant's qualifications ultimately to hold a license.

For this reason, the Department looks with disfavor upon transfers of determination of need, and will permit a transfer only in exceptional circumstances. Assuming that the applicant is able to complete his project, he will return to the Department for the final determination with respect to suitability and responsibility when he applies for an original license. The capacity he has shown in completing the project, including whether he has carried out the project in a timely fashion and built in accordance with all applicable departmental regulations and construction standards, forms a major part of the record upon which the

Department will make its final determination of whether he should receive a license.

If a prospective applicant has any questions concerning the standards to be used in granting or denying any of the above approvals or the procedures which will be followed in processing them, inquiries should be directed to the following governmental agencies:

(a) Approval of construction plans:

Department of Public Health
c/o Bureau of Construction & Engineering
Room 850 - 80 Boylston Street
Boston, Massachusetts 02116

(b) Licensure:

Department of Public Health
c/o Division of Health Care Standards
Room 940, 80 Boylston Street
Boston, Massachusetts 02116

(c) Certification:

Department of Public Health
c/o Division of Health Care Standards
Room 940 - 80 Boylston Street
Boston, Massachusetts 02116

Department of Public Welfare
Medical Assistance Division
600 Washington Street
Boston, Massachusetts 02116

(d) Approval of rate:

Rate Setting Commission
80 Boylston Street
Boston, Massachusetts 02116

Approved and adopted at meeting
of Public Health Council, 1/23/75

A true copy attest:

Barbara A. Brown

M E M O R A N D U M

TO: Applicants
Regional Comprehensive Health Planning Agencies
State Office of Comprehensive Health Planning
Department of Elder Affairs

FROM: Elaine Shepard Ullian

DATE: November 17, 1975

SUBJECT: Filing Procedures

Requirements for filing applications for Determination of Need have become more stringent since the implementation of the new Regulations Governing Determination of Need. Specifically, this Office has instituted a policy of revoking acceptance of applications which do not comply with the standing requirements outlined in Sections 30, 31, and 32 of the Regulations.

To minimize the possibility that an application may not be accepted by this Office, applicants are encouraged to file their application PRIOR to the 1976 filing dates of January 1, May 1, and September 1. Applications filed prior to the applicable filing date will be reviewed by our Applications Manager, who in turn will notify an applicant of standing requirement deficiencies within an application.

This Office encourages applicants to take advantage of our pre-filing screening system to insure that an application will not be subject to revocation due to simple omissions of materials.

NOTICE OF INTENT TO SECURE FINANCING

The following shall serve as "notice of intent" as required under section 20 of the Massachusetts Determination of Need Regulations prior to the solicitation or securing of funds.

_____
(Name of person giving notice)

_____
(Address of person giving notice)

hereby give notice of the intent to solicit or secure financing to: (describe project briefly, including specification of licensing category of facility and of any change in service)

_____

_____

_____

_____

at: _____
(Name of facility)

_____
(Address of facility)

to serve: (target population by medical category and applicable service area)

_____

_____

with the range of the estimated capital expenditure: $_____ $_____
MINIMUM MAXIMUM

Financing of the following type and amount:

$_____ _____
Amount Type

will be sought from: _____

I, THE UNDERSIGNED, CERTIFY THAT:

1) I have read the Massachusetts Determination of Need Regulations and this document;

2) All statements contained herein are accurate and true to the best of my knowledge;

3) I have caused the appropriate number of copies of this document to Department and appropriate health and planning agencies, and if relevant under Section 15 of the Regulations, to the city, town, or district officials.

Signed on the _____ day of _____, 197_.

_____
Signature of Authorized Facility

_____
Position or Title

GENERAL INSTRUCTIONS FOR

ALL DETERMINATION OF NEED APPLICATIONS

Enclosed is an application form for Determination of Need. In order to complete this form it is absolutely necessary to read and comply with the Massachusetts Determination of Need Regulations. The Regulations may be obtained from the Secretary of State, State House, Boston, for $2.00.

NO APPLICATIONS WILL BE ACCEPTED FOR FILING UNLESS THEY ARE IN COMPLETE COMPLIANCE WITH SECTIONS 30, 31, AND 32 OF THE REGULATIONS.

ASSISTANCE AVAILABLE:

Applicants are strongly urged to consult their regional comprehensive health planning agency (see attached list) for information and guidance prior to beginning this process and for continued assistance throughout the pendency of the application.

Assistance shall also be available from the Department Staff insofar as is possible consistent with the Staff's other duties. They may be reached at (617) 727-6274/8825.

CONTENTS OF APPLICATION:

Please refer to Section 31 of the Regulations regarding the required contents of the application.

Please note that if a filing fee is required (See Section 31.6), it must be submitted with the application, by check payable to the "Commonwealth of Massachusetts."

Attention is directed to Section 30.7 of the Regulations requiring documentation as to ownership and zoning. Such documentation need only be submitted with the original copy and referenced in succeeding copies.

Attention is also directed to Section 32 of the Regulations regarding the public announcement of application. A sample announcement is attached.

NO APPLICATION WILL BE ACCEPTED IF THE REQUIREMENTS OF SECTIONS 30, 31, AND 32 ARE NOT MET.

DISTRIBUTION OF COPIES: (Section 30.1 of the Regulations)

One complete original and three additional copies are to be submitted to:

Determination of Need Program
Department of Public Health
Room 925, 80 Boylston Street
Boston, Massachusetts 02116

Two copies are to be submitted to:

Office of Comprehensive Health Planning
Room 909, 100 Cambridge Street
Boston, Massachusetts 02202

Ten copies are to be submitted to the appropriate regional comprehensive health planning agency. (See list for address)

Two copies, if relevant under Section 15 of the Regulations, to:

Office of Elder Affairs
18 Tremont Street
Boston, Massachusetts 02108

SUGGESTED FORMAT

THE FOLLOWING IS A SUGGESTED FORMAT FOR ANY APPLICATION SUBMITTED FOR DETERMINATION OF NEED.

A Title page and a Table of Contents should introduce the application. Clearly identify and label all sections throughout the application.

I. Statement of Application

A) Affidavit of Truthfulness - completed and attached as Page 1.
B) Filing Fee Computation and Newspaper Notice - completed and attached, with appropriate attachment, as Page 2.
C) Synopsis - Page 3.
D) General Identifying Information - completed and attached as Page 4.

II. Supporting Documentation

A) Project Narrative - The narrative should be included in the main body of the application. All charts and attachments should be included as appendices, identified as Appendix A and numbered within, and referred to in the narrative.

B) Environmental Assessment - include in the main body of application and attach any documentation as Appendix B, numbered within.

C) Financial Feasibility - Any narrative portion and the tables in the application form should be included in the main body. Any other attachments should be included in Appendix C, numbered within, and so referenced.

SAMPLE FORM FOR LEGAL NOTICE TO BE PUBLISHED IN NEWSPAPER

Every applicant for Determination of Need is required to publish a notice of intent as prescribed in Section 32 of the Regulations. A sample form of the notice is provided below for your guidance.
PLEASE REFER TO THE REGULATIONS FOR DETAILS OF PUBLICATIONS.

PUBLIC ANNOUNCEMENT

CONCERNING

(NAME OF HEALTH FACILITY)

(Legal Name of Applicant) intends to file an application with the Massachusetts Department of Public Health for a Determination of Need to (brief description of project)* at (specific address of project).

A public hearing shall be ordered on the application at the request of any ten taxpayers of the Commonwealth made in writing, not later than (date)** _____, to the Department of Public Health, Attention: Determination of Need Program, Room 925, 80 Boylston Street, Boston, MA 02116. The application may be inspected at such address and also at (address of appropriate regional C.H.P. Agency).

* See 32.2 (2) -- include name of facility if not same as applicant; projects involving beds should reference number and types/levels of beds; nature of construction should be clear, i.e. new building, addition (cite location), or renovation.

** Date cited should be twenty days after the applicable filing day as defined in Section 30.3 of the Regulations. (The filing day is NOT generally the day of publication.)

COMMONWEALTH OF MASSACHUSETTS

DEPARTMENT OF PUBLIC HEALTH

****

APPLICATION FOR
DETERMINATION OF NEED

****

LONG-TERM CARE FACILITY

AFFIDAVIT OF TRUTHFULNESS AND PROPER SUBMISSION

_____
(Name of Applicant)

_____
(Address of Applicant)

hereby makes application for a determination of need under Chapter 111 or 111B of the General Laws and the Massachusetts Determination of Need Regulations.

for: ___ original licensure
___ substantial capital expenditure
___ substantial change in service

respecting a: ____ hospital
____ long term care facility
____ clinic
____ other (specify)_____

for the development of:

_____
(Name of facility and/or program)

at the following address:

_____
(Street and Town)

with the range of the estimated capital expenditure (Section 5 (3) of the Regulations):

_____Minimum _____Maximum

I, THE UNDERSIGNED, CERTIFY THAT:

1) I have read the Massachusetts Determination of Need Regulations;
2) I have read this application for Determination of Need including all exhibits and attachments, and the information contained therein is accurate and true;
3) I have submitted the required copies of this application to the State and appropriate regional comprehensive health planning agencies and, if relevant under Section 15 of the Regulations, to the Department of Elder Affairs;
4) I have caused notice to be published as required by Section 32 of the Regulations. The notice, true copies of which are enclosed, was published in the

_____on_____
(Name of Newspaper) (Date of Publication)

_____on_____
(Name of Newspaper) (Date of Publication)

5) The applicant is, or will be, the eventual licensee of the facility.
6) All material submitted to the Department by or on behalf of the applicant respecting the subject matter of this application is, to the best of my knowledge and belief, accurate and true.

Signed on the_____day of_____, 197_ under the pains and penalties of perjury.

_____
Signature of Authorized Official

_____
Position or Title

THIS FORM MUST BE NOTARIZED IN THE SPACE PROVIDED BELOW:

FILING FEE AND COMPUTATION SHEET

Every applicant, other than a government agency, filing under G.L. C. 111 S. 25c is required to accompany his application with a filing fee as indicated below:

(1) Where the proposed minimum point in the range of capital expenditures is one million ($1,000,000) or less, the filing fee shall be one hundred dollars ($100).

MINIMUM EXPENDITURE_____ FILING FEE_____

(2) Where the proposed minimum point in the range of capital expenditures is greater than one million dollars ($1,000,000), the filing fee shall be one hundred dollars ($100) plus .00005 of the excess over $1,000,000.

MINIMUM EXPENDITURE = $_____

-1,000,000.00

=_____ X .00005 = $_____

\+ 100.00

FILING FEE = _____

Applicant must attach here check or money order made payable to "The Commonwealth of Massachusetts," in the amount indicated above.

IF APPLICANT CLAIMS AN EXEMPTION FROM THE FILING FEE, HE MUST STATE HERE WHY HE IS EXEMPT FROM THE REQUIREMENT OF A FILING FEE, CITING THE APPLICABLE REGULATION.

NEWSPAPER NOTICE

Applicant attach here a true copy of the notices of publication, with date of publication, as required under Section 32 of the Massachusetts Determination of Need Regulations.

FILING FEE AND COMPUTATION SHEET

Every applicant, other than a government agency, filing under G.L. C. 111 S. 25c is required to accompany his application with a filing fee as indicated below:

(1) Where the proposed minimum point in the range of capital expenditures is one million ($1,000,000) or less, the filing fee shall be one hundred dollars ($100).

MINIMUM EXPENDITURE_____ FILING FEE_____

(2) Where the proposed minimum point in the range of capital expenditures is greater than one million dollars ($1,000,000), the filing fee shall be one hundred dollars ($100) plus .00005 of the excess over $1,000,000.

MINIMUM EXPENDITURE = $_____

-1,000,000.00

= _____ X .00005 = $_____

\+ 100.00

FILING FEE = _____

Applicant must attach here check or money order made payable to "The Commonwealth of Massachusetts," in the amount indicated above.

IF APPLICANT CLAIMS AN EXEMPTION FROM THE FILING FEE, HE MUST STATE HERE WHY HE IS EXEMPT FROM THE REQUIREMENT OF A FILING FEE, CITING THE APPLICABLE REGULATION.

NEWSPAPER NOTICE

Applicant attach here a true copy of the notices of publication, with date of publication, as required under Section 32 of the Massachusetts Determination of Need Regulations.

GENERAL IDENTIFYING INFORMATION

1) NAME OF APPLICANT _____

ADDRESS _____
STREET CITY COUNTY ZIPCODE

2) NAME OF FACILITY (IF DIFFERENT) _____

ADDRESS _____
STREET CITY COUNTY ZIPCODE

3) NAME OF PERSON TO BE CONTACTED REGARDING THIS APPLICATION:

_____ TITLE _____

ADDRESS _____
STREET CITY COUNTY ZIPCODE

TELEPHONE (____) _____

TYPE OF OWNERSHIP

4) _____CITY _____STATE PROPRIETARY: _____INDIVIDUAL

_____COUNTY _____PRIVATE NONPROFIT ORGANIZATION _____PARTNERSHIP

_____CORPORATION

5) List all officers, members of the board of directors, trustees, stockholders, partners, and any other individuals with any equity, or otherwise controlling, interest in the applicant. With respect to each person listed, please give their address, principal occupation, position with respect to the applicant, and amount, if any, of the percentage of stock, share of partnership, or other equity interest in the applicant. Attach as an appendix.

6) Have any of the individuals listed in response to Question 5:

a) Ever been involved in any proceeding before any local, state, or federal agency, or court, concerning any alleged violation of any local, state, or federal statute, regulation, ordinance, or other law?

b) Ever been involved as a debtor, or as an officer, director, or equity owner of a debtor company, in a proceeding under any chapter of the Federal Bankruptcy Act?

7) With respect to all individuals listed in Question 5:

a) List all other health care facilities, within or without the Commonwealth, in which they are officers, directors, trustees, stockholders, partners, or in which they hold any equity interest.

b) Do any of the individuals presently have, or intend to have, any business relationship, including but not limited to: supply company, construction company, mortgage company, etc., with the applicant.

8) If the applicant is a corporation: (attach articles in appendix)

a) date articles of incorporation approved _____

b) or, date articles of incorporation filed _____

9) Approximate date for:

Commencement of construction _____

Completion of construction _____

Commencement of operation _____

If this application concerns an existing facility, answer the following questions.

10) Is the facility currently licensed? _____Yes _____No

11) Date of last licensure. _____

12) Number of licensed beds by level of care _____Level I/II
_____Level III _____Level IV

13) Is the facility of wood frame construction? _____Yes _____No

14) Of what class construction is the facility? _____

15) Has the facility been judged in compliance with the Life Safety Code?
_____Yes _____No

16) If no, has an acceptable plan of correction been submitted?
_____Yes _____No

17) What is the capital expense associated with this plan of correction?
_____

18) If this application, as herein presented, is approved, will the facility be in compliance with the Life Safety Code? _____Yes _____No

SYNOPSIS

PROVIDE A BRIEF (250 words) SYNOPSIS OF THE PROPOSAL WHICH SHOULD INCLUDE.

A) Name and address of the facility,

B) The geographical area to be served by the facility,

C) Description of proposed construction or renovation,

D) Brief description of the service (s) to be provided upon completion of the project. Include any anticipated changes in volume, costs, treatment modalities, etc., if applicable,

E) The range of the estimated capital expenditure.

PROJECT NARRATIVE

Respond to each of the following questions as appropriate to the scope of the project.

1) Discuss the need which this application seeks to address and the manner in which you have become aware of it.

2) Discuss the planning process for this project, with particular reference to other alternatives which were considered. Discuss how approval and implementation of this project will satisfy the perceived need. Consider also the implications of doing nothing, or of implementing a project of reduced scope.

3) Describe in detail the project which you seek to undertake. Indicate services you will provide, the staffing pattern, and the types of patients which will be eligible for admission.

4) Describe the organizational and administrative structure of the facility.

5) Indicate the area you propose to serve, and describe it demographically with reference to age, sex, ethnic groups, special needs, etc.

6) List all other similar health care services in the proposed service area and demonstrate the impact of this project on these facilities in terms of referrals, duplications, etc.

7) Provide a description of the physical plant of the facility.

8) Describe any factors, such as public transportation, affecting the accessibility of the facility.

9) Describe the cost implications of this project.

INSTRUCTIONS FOR COMPLETION OF CHARTS

Please complete the attached chart. The data should be based on the fiscal year and provided for the last two (2) years.

REQUIRED ATTACHMENTS

Submit written agreements with other health care providers for transfer and refferal.

STATISTICAL DATA

NURSING UNIT	NUMBER OF BEDS	NUMBER OF PATIENT DAYS	PERCENT OCCUPANCY RATE
Level I: 197_			
197_			
Level II: 197_			
197_			
Level III: 197_			
197_			
Level IV: 197_			
197_			

SQUARE FOOTAGE CHART

NAME OF FUNCTIONAL AREA *	PRESENT SQUARE FEET**	SQUARE FEET TO BE: **		TOTAL SQUARE FEET **
		CONSTRUCTED	RENOVATED	

*Examples of functional areas are: nursing stations, laboratory, doctor's office, lobby, medical records, etc.

**Indicate whether the amount recorded is gross or net square feet.

SUBSEQUENT TO THE ENACTMENT OF MASSACHUSETTS GENERAL LAWS, CHAPTER 30, SECTIONS 61 AND 62 (ENVIRONMENTAL PROTECTION) AND THE REGULATIONS ISSUED THEREUNDER BY THE EXECUTIVE OFFICE OF HUMAN SERVICES, THE DEPARTMENT OF PUBLIC HEALTH IS REQUIRED TO DETERMINE THE IMPACT ON THE NATURAL ENVIRONMENT OF ALL PROJECTS. IN ORDER FOR THE DEPARTMENT TO MAKE SUCH A DETERMINATION, ANY APPLICANT WHOSE PROJECT INCLUDES NEW CONSTRUCTION MUST COMPLETE THIS QUESTIONNAIRE. THE FORM SHOULD BE COMPLETED AND SIGNED BY A REGISTERED ARCHITECT. APPLICANTS WHOSE PROJECTS WILL EXCEED FIVE MILLION DOLLARS IN CAPITAL COSTS ARE URGED TO CONTACT THE DEPARTMENT AND SEEK ASSISTANCE IN THIS MATTER.

RESPOND TO ALL OF THE FOLLOWING QUESTIONS, INDICATING BOTH SHORT-TERM AND LONG-TERM EFFECTS. IF YOU ANTICIPATE EFFORTS TO MITIGATE THE IMPACT, YOU MAY WISH TO BRIEFLY DESCRIBE ANY SUCH RELEVANT EFFORTS. ANSWER ONLY IF THE PROJECT INVOLVES NEW CONSTRUCTION.

1) Could the project result in a deleterious effect on the quality of any portion of the state's air resources?

   a) By what percentage can you expect traffic volume to increase as a result of this project? By what percentage do you expect the volume of services delivered to increase? By what percentage will your staff expand?

   b) What is the present CO concentration in the area, if known?

   c) Will any additional boiler stacks be constructed, or will the output from existing ones increase, and if so, to what extent?

   d) Will the project result in the generation of significant amounts of dust?

2) Could the project result in the generation of significant amounts of noise?

3) Could the project result in a deleterious effect on the quality of any portion of the state's water resources?

   a) What percentage of currently pervious surface will be made impervious?

   b) Can your facility utilize the existing municipal sewage and/or storm drainage systems, or will it be necessary to construct your own?

   c) Will the additional demand on the municipal storm drainage systems as a result of this project represent an increase of more than one percent of the system's remaining capacity?

   d) If there is an increase in the volume of sanitary sewage, will it be in excess of one percent of the remaining capacity of the existing system?

   e) Is the sanitary and storm water sewage system mixed or separate?

   f) Could the project change existing features of any of the Commonwealth's fresh or salt waters or wetlands?

   g) Could the project change existing features of any of the Commonwealth's beaches?

   h) Will the project be built in a designated flood plain, or in an area subject to flooding?

4) Could the project have a deleterious effect on the land?

   a) On how many acres will your facility be located? What percentage of this currently is or will be built lup after the completion of this project and what will be open space?

   b) Will the soil be more vulnerable to erosion as a result of this project?

   c) Will soil removal, grading, or filling be necessary?

   d) Could the project affect the potential use, extraction, or conservation of a scarce natural resource?

   e) Could the project result in the elimination of land presently utilized for agricultural purposes?

5) Could the project have a deleterious effect on vegetation or animal habitation?

a) Does the project area serve as a habitat, food source, water source, nesting place, etc, for any rare or endangered wildlife or fish species?

b) Could the project affect fish, wildlife, or plant life?

c) Are there any rare or endangered plant species in the affected areas?

d) Will any trees by removed?

6) Will the project have a deleterious effect on the surrounding area?

a) What is the current use of the land, and that of the surrounding area?

b) How many square feet will be constructed? How many stories (building height) will the facility be? How many stories of this will be below grade?

c) Will any significant wind tunnel or shadow effects be created?

d) Could the project affect the use of a recreational area or area of important aesthetic value?

e) Is the area of important scenic value?

f) Could the project affect an historical or archeological structure or site?

g) Are any of the natural or man-made features in the affected area unique?

7) Will the project involve the use and disposal of potentially hazardious (i.e., radiological) materials?

8) Are the following services and facilities adequate to handle the demand generated by our project?

a) Water facilities (both adequacy or volume and pressure)

b) Sewage and storm drainage facilities

c) Solid-waste disposal facilities

d) Power and other utilities

e) Local transportation facilities

f) Vehicular arteries

9) Will the project require a variance from or result in a violation of, any statute, ordinance, by-law, regulation, or standard, the major purpose of which is to prevent or minimize damage to the environment?

10) Will the project require certification, authorization, or issuance of a permit by any local, state, or federal environmental control agency?

11) Will any variances from the zoning codes be required?

12) If there are official plans for the area, is this project consistent with those plans?

13) Will the project result in any form of environmental damage not included in the above questions?

Attach an 8½ by 11 inch map of the area, indicating on such map the current usage of the area and the location of your facility?

FINANCIAL FEASIBILITY AND CAPABILITY

The concept of financial feasibility, its determinants and its significance in the Determination of Need process are addressed clearly in the Regulations--Reference Sections 5 (3), 5 (22), 5 (23), 31.5, 34.3 (1), 54.3 (7, 8, 9), 54.5, 55.2 (3, 6, 7). Applicants should review these sections prior to completion of the financial component of the application form.

The following financial information and financial statements with accompanying notes and assumptions must be submitted with this application form.

A) Estimated Capital Expenditure: Complete TABLE I.

B) Source of Funds: Complete TABLE II and IIa.

C) Financial Statements: Must be current to within twelve (12) months, and certified if possible.

1) Submit applicant's:

a) Balance Sheet and

b) Income Statement.

2) In addition, if the proposed project is an addition to or replacement of an existing facility, submit:

a) Balance Sheet and

b) Income Statement for the facility.

3) If any significant portion of the source of funds as outlined on TABLE II or IIa is to be derived from a source other than the applicant, submit:

a) Balance Sheet and

b) Income Statement for the other source.

D) Income and Cash Flow Projection: Outline a projection of;

1) Income and expense, and

2) Cash Flow

for the proposed facility for the first twenty-four (24) months of operation after completion of construction.

TABLE I - ESTIMATED CAPITAL EXPENDITURE

Outlined below is a comprehensive list of all components of Estimated Capital Expenditure. Capital Expenditure as defined in the Regulations includes the site acquisition cost of land and buildings or fair market value of land and buildings if leased, the total cost of construction including all site improvements, the cost of all capital equipment or fair market value if leased, the cost of all professional fees associated with the development of the project, including fees for architectural, engineering, legal, accounting, feasibility, planning and financing services, any fee associated with financing, and the interest cost to be incurred on funds borrowed during construction (but not including the on-going interest expense of permanent financing).

The estimate to be computed below must be based on costs and interest rates as of the date of application and should not include any provision for inflation. The maximum estimate of total capital expenditure may not exceed the minimum by more than 25%. Do not include a provision for contingency.

	MINIMUM	MAXIMUM
1. Land (acquisition cost)	$_____	$_____
2. Building (acquisition cost)	_____	_____
3. Construction Contract (include bonding costs) . .	_____	_____
4. Fixed Equipment not in contract	_____	_____
5. Movable Equipment	_____	_____
6. Site Survey and Soil Investigation	_____	_____
7. Architect's Fee	_____	_____
8. Architectural Supervision	_____	_____
9. Financing and Underwriting	_____	_____
10. Construction Loan Interest (rate = _____%) . .	_____	_____
11. Legal Fees	_____	_____
12. Other (Itemize)	_____	_____
. . . . .	_____	_____
. . . . .	_____	_____
ESTIMATED RANGE OF TOTAL CAPITAL EXPENDITURES	$_____	$_____

TABLE II - SOURCE OF FUNDS

PROPOSED FINANCING

Check anticipated source of permanent financing:

Lending Institution (specify) _____
Federal Housing Administration Guarantee (FHA)
Other Financing (specify) _____

SOURCE OF FUNDS

Permanent Loan: (1) (2)		
Principal		$_____
Interest Rate (annual)	_____%	
Term	_____	
Other Source: (specify)		$_____
Sponsors Investment:		
Cash*	$_____	
Other	_____	
Total Sponsors Investment		$_____
Total Capital Expenditure		$_____

*Source of Cash (specify):

Collateral: Indicate the specific extent of mortagee's proposed collateral interest in real property, gross receipts, etc.

_____

_____

_____

Working Capital Financing: Indicate the project's requirement for new working capital, including requirements due to start-up expenses.

_____

_____

_____

(1) If proposed debt service requires other than even periodic payments which include principal and interest, attach a separate sheet outlining the required schedule of payments of principal and interest over the term of the loan.

(2) Purchase/leaseback or similar arrangements which are in essence forms of secured financing should be indicated separately on an attachment indicating terms of the proposed arrangement.

TABLE IIa - ALTERNATIVE METHOD OF FINANCING

Indicate a viable alternative to the means of financing outlined in Table II.

SOURCE OF FUNDS

Permanent Loan:
- Principal. . . . . $_____
- Interest Rate (annual) . . . . . _____%
- Term . . . . . _____

Other Source: (specify). . . . . $_____

Sponsors Investment:
- Cash*. . . . . $_____
- Other. . . . . _____

Total Sponsors Investment . . . . . $_____

Total Capital Expenditure . . . . . $_____

*Source of Cash (specify):

COMMONWEALTH OF MASSACHUSETTS

DEPARTMENT OF PUBLIC HEALTH

****

APPLICATION FOR
DETERMINATION OF NEED

****

HOSPITALS

AFFIDAVIT OF TRUTHFULNESS AND PROPER SUBMISSION

_____
(Name of Applicant)

_____
(Address of Applicant)

hereby makes application for a determination of need under Chapter 111 or 111B of the General Laws and the Massachusetts Determination of Need Regulations.

for: ___ original licensure
___ substantial capital expenditure
___ substantial change in service

respecting a: ____ hospital
____ long term care facility
____ clinic
____ other (specify)_____

for the development of:

_____
(Name of facility and/or program)

at the following address:

_____
(Street and Town)

with the range of the estimated capital expenditure (Section 5 (3) of the Regulations):

_____Minimum _____Maximum

I, THE UNDERSIGNED, CERTIFY THAT:

1) I have read the Massachusetts Determination of Need Regulations;
2) I have read this application for Determination of Need including all exhibits and attachments, and the information contained therein is accurate and true;
3) I have submitted the required copies of this application to the State and appropriate regional comprehensive health planning agencies and, if relevant under Section 15 of the Regulations, to the Department of Elder Affairs;
4) I have caused notice to be published as required by Section 32 of the Regulations. The notice, true copies of which are enclosed, was published in the

_____on_____
(Name of Newspaper) (Date of Publication)

_____on_____
(Name of Newspaper) (Date of Publication)

5) The applicant is, or will be, the eventual licensee of the facility.
6) All material submitted to the Department by or on behalf of the applicant respecting the subject matter of this application is, to the best of my knowledge and belief, accurate and true.

Signed on the_____day of_____, 197_ under the pains and penalties of perjury.

_____
Signature of Authorized Official

_____
Position or Title

THIS FORM MUST BE NOTARIZED IN THE SPACE PROVIDED BELOW:

FILING FEE AND COMPUTATION SHEET

Every applicant, other than a government agency, filing under G.L. C. 111 S. 25c is required to accompany his application with a filing fee as indicated below:

(1) Where the proposed minimum point in the range of capital expenditures is one million ($1,000,000) or less, the filing fee shall be one hundred dollars ($100).

MINIMUM EXPENDITURE_____ FILING FEE_____

(2) Where the proposed minimum point in the range of capital expenditures is greater than one million dollars ($1,000,000), the filing fee shall be one hundred dollars ($100) plus .00005 of the excess over $1,000,000.

MINIMUM EXPENDITURE = $_____

-1,000,000.00

=_____ X .00005 = $_____

\+ 100.00

FILING FEE = _____

Applicant must attach here check or money order made payable to "The Commonwealth of Massachusetts," in the amount indicated above.

IF APPLICANT CLAIMS AN EXEMPTION FROM THE FILING FEE, HE MUST STATE HERE WHY HE IS EXEMPT FROM THE REQUIREMENT OF A FILING FEE, CITING THE APPLICABLE REGULATION.

NEWSPAPER NOTICE

Applicant attach here a true copy of the notices of publication, with date of publication, as required under Section 32 of the Massachusetts Determination of Need Regulations.

GENERAL IDENTIFYING INFORMATION

1) NAME OF APPLICANT _____

ADDRESS _____
STREET CITY COUNTY ZIPCODE

2) NAME OF FACILITY (IF DIFFERENT) _____

ADDRESS _____
STREET CITY COUNTY ZIPCODE

3) NAME OF PERSON TO BE CONTACTED REGARDING THIS APPLICATION:

_____ TITLE _____

ADDRESS _____
STREET CITY COUNTY ZIPCODE

TELEPHONE (____) _____

TYPE OF OWNERSHIP

4) _____CITY _____STATE PROPRIETARY: _____INDIVIDUAL

_____COUNTY _____PRIVATE NONPROFIT ORGANIZATION _____PARTNERSHIP

_____CORPORATION

5) List all officers, members of the board of directors, trustees, stockholders, partners, and any other individuals with any equity, or otherwise controlling, interest in the applicant. With respect to each person listed, please give their address, principal occupation, position with respect to the applicant, and amount, if any, of the percentage of stock, share of partnership, or other equity interest in the applicant. Attach as an appendix.

6) Have any of the individuals listed in response to Question 5:

a) Ever been involved in any proceeding before any local, state, or federal agency, or court, concerning any alleged violation of any local, state, or federal statute, regulation, ordinance, or other law?

b) Ever been involved as a debtor, or as an officer, director, or equity owner of a debtor company, in a proceeding under any chapter of the Federal Bankruptcy Act?

7) With respect to all individuals listed in Question 5:

a) List all other health care facilities, within or without the Commonwealth, in which they are officers, directors, trustees, stockholders, partners, or in which they hold any equity interest.

b) Do any of the individuals presently have, or intend to have, any business relationship, including but not limited to: supply company, construction company, mortgage company, etc., with the applicant.

8) If the applicant is a corporation: (attach articles in appendix)

a) date articles of incorporation approved _____

b) or, date articles of incorporation filed _____

9) Approximate date for:

Commencement of construction _____

Completion of construction _____

Commencement of operation _____

SYNOPSIS

PROVIDE A BRIEF (250 words) SYNOPSIS OF THE PROPOSAL WHICH SHOULD INCLUDE:

A) Name and address of the facility,

B) The geographical area to be served by the facility,

C) Description of proposed construction or renovation,

D) Brief description of the service (s) to be provided upon completion of the project. Include any anticipated changes in volume, costs, treatment methodologies, etc., if applicable,

E) The range of the estimated capital expenditure, and a brief description of the cost implications of the project.

PROJECT NARRATIVE

Respond to each of the following questions as appropriate to the scope of the project.

1. Discuss the need which this application seeks to address and the manner in which you have become aware of it.

2. Include a discussion of the planning process, with respect to alternatives which were considered as well. Specifically discuss the role of the regional health planning agency and the community in this process. Indicate the relationship of this project to the long-range plans of the hospital.

3. Discuss how approval and implementation of this project will satisfy the perceived need. Consider also the implications of doing nothing, or of implementing a project of reduced scope.

4. Provide a general demographic description of the proposed service area with reference to such parameters as: age, sex, income, education, mobility, ethnic groups, etc. Additionally, describe or indicate your patient mix over the past few years with respect to the same demographic characteristics. Identify the health problems of the community or any expected changes in health needs. Indicate source of statistics and any assumptions which were made.

5. Provide estimates of the expected demand for and the projected utilization of your service. Describe the assumptions which were made and the methodologies which were employed in arriving at this estimate.

6. Describe in detail the project which you seek to undertake.

7. List all other facilities or programs in the proposed service area which offer the same services. For these facilities, provide the occupancy rate and the average length of stay by service. Demonstrate the effect of this project on these other services in terms of referrals, duplication, utilization, patterns, etc. If one or more services are similar and reasonably accessible to the population which you propose to serve, describe the conjoint planning among hospitals in the area with respect to the utilization of these services.

8. Provide a description of the existing physical plant of your hospital, and identify which, if any, are affected by this project.

9. Describe any factors affecting the accessibility of the service such as the public transportation network, parking facilities, geographic concerns, patterns of seasonal migration, etc.

10. Describe the cost implications of this project (e.g., effect on cost and charge structure, reduction or expansion of staff, economies of scale to be realized, etc).

11. Describe the composition of the governing board in terms of consumers, providers, or other identification, and voting power. Include the name, address, occupation, and title of the members of the executive, finance, long-range planning, and any other key committees.

12. Describe both internal (i.e., utilization review teams) and external (i.e., consumer advisory boards) mechanisms for the evaluation of this project.

REQUIRED ATTACHMENTS

A) Submit the most recent copy of the following reports:

1) Joint Commission on Accreditation of Hospitals
2) Insurance Underwriter's Report

B) Documentation of ownership and zoning as per Section 30.7 of the Regulations.

C) Provide existing and proposed floor diagrams for any portion of the physical plant which will be altered by this project.

INSTRUCTIONS FOR COMPLETION OF CHARTS

1) Complete all of the following charts.

2) All information should be based on the fiscal year.

3) Carry out all computations to two significant figures.

4) For all of the following charts, the data should provide either three (3) or five (5) years, as indicated, of historical experience.

   For the area(s) which is the focus of this application (i.e., inpatient, outpatient, ancillary), and only for this area, figures must be projected to represent the first two (2) years of normal operation after substantial completion of the project. If substantial differences are expected during the years of construction, or if construction is expected to exceed three (3) years, please indicate and provide projections for these years on a separate page.

5) Indicate the fiscal years for which information is provided.

6) Data for the following ancillary services should be provided, and the following measures should be used. To the extent that your records employ different units of measurement, enter the data in your format, indicating both where you have done so and the unit of measurement used. Where more than one measurement is requested, complete a separate chart for each measurement.

Department	Unit of Service
Anesthesiology	(1) Number of patients served (2) Hours of administration and use
Blood Bank	Number of 500cc units prepared for transfusions
Central Supply	Dollar value of processed requisitions
Delivery Rooms	Number of deliveries
Dietary	Number of meals served
Electrocardiology	Number of examinations
Inhalation Therapy	Number of hours oxygen is administered
Laboratory	Number of tests
Laundry	Pounds or pieces of laundry processed
Occupational Therapy	Hours of teaching and supervision
Pharmacy	Dollar value of prescriptions and requisitions processed
Physical Therapy	Number of treatments
Postoperative or Postanesthesia Recovery Rooms	Number of patient hours of service
Radiology:	
Diagnostic	1. Number of films taken 2. Number of fluoroscopic examinations
Therapy	1. Number of X-ray treatments 2. Number of radium implantations 3. Number of treatments by radioactive elements
Social Service	Hours of service

INPATIENT STATISTICAL DATA

SERVICE	NUMBER OF BEDS	PERCENT OCCUPANCY RATE	NUMBER OF DISCHARGES	NUMBER OF PATIENT DAYS	AVERAGE LENGTH OF STAY
Medicine * :					
197_					
197_					
197_					
197_					
197_					
Projected 197_					
Projected 197_					
Surgery :					
197_					
197_					
197_					
197_					
197_					
Projected 197_					
Projected 197_					
Pediatrics :					
197_					
197_					
197_					
197_					
197_					
Projected 197_					
Projected 197_					

*If your method of data collection differs in respect to aggregation of beds, please use your designation of beds, and indicate where you have done so.

INPATIENT STATISTICAL DATA

SERVICE	NUMBER OF BEDS	PERCENT OCCUPANCY RATE	NUMBER OF DISCHARGES	NUMBER OF PATIENT DAYS	AVERAGE LENGTH OF STAY
Obstetrics: *					
197_					
197_					
197_					
197_					
197_					
Projected 197_					
Projected 197_					
Rehabilitative Medicine					
197_					
197_					
197_					
197_					
197_					
Projected 197_					
Projected 197_					
Psychiatry:					
197_					
197_					
197_					
197_					
197_					
Projected 197_					
Projected 197_					

*Indicate whether GYN beds are included in surgical or obstetric complement.

INPATIENT STATISTICAL DATA

SERVICE	NUMBER OF BEDS	PERCENT OCCUPANCY RATE	NUMBER OF DISCHARGES	NUMBER OF PATIENT DAYS	AVERAGE LENGTH OF STAY
ICU * :					
197_					
197_					
197_					
197_					
197_					
Projected 197_					
Projected 197_					
CCU * :					
197_					
197_					
197_					
197_					
197_					
Projected 197_					
Projected 197_					
Newborn Services :					
197_					
197_					
197_					
197_					
197_					
Projected 197_					
Projected 197_					

*If ICU/CCU are combined, show as such.

INPATIENT STATISTICAL DATA

SERVICE	NUMBER OF BEDS	PERCENT OCCUPANCY RATE	NUMBER OF DISCHARGES	NUMBER OF PATIENT DAYS	AVERAGE LENGTH OF STAY
Other :					
197_					
197_					
197_					
197_					
197_					
Projected 197_					
Projected 197_					
Other :					
197_					
197_					
197_					
197_					
197_					
Projected 197_					
Projected 197_					
Other :					
197_					
197_					
197_					
197_					
197_					
Projected 197_					
Projected 197_					

EMERGENCY ROOM - NUMBER OF VISITS

FISCAL YEAR	EMERGENCY	NON-EMERGENCY	TOTAL
[redacted]			
197_			
197_			
197_			
197_			
Projected 197_			
Projected 197_			

OPERATING ROOM - NUMBER OF PROCEDURES

[redacted]CAL YEAR	TOTAL	NUMBER OF SUBSPECIALTY PROCEDURES								
		NEURO	THORACIC*	CARDIOVASCULAR**	ORTHO	GYN	GU	E/ENT	PLASTIC	OTHER
197_										
197_										
197_										
197_										
197_										
Projected 197_										
Projected 197_										

*excluding heart and great vessel

** do not include open heart - if open heart is performed show separately

[redacted]O'PLETE PROJECTIONS ONLY IF THE PROJECT CONCERNS THESE SERVICES.

VOLUME OF ANCILLARY SERVICES

Complete for the departments and/or services indicated on the instruction sheet. If your records are kept differently, use your measure and indicate where you have done so. Complete projections only if the project concerns an ancillary service. Duplicate this form as is necessary to provide for all ancillary services.

NAME OF SERVICE _____

	INPATIENT	OUTPATIENT	TOTAL
197_			
197_			
197_			
Projected 197_			
Projected 197_			

NAME OF SERVICE _____

	INPATIENT	OUTPATIENT	TOTAL
197_			
197_			
197_			
Projected 197_			
Projected 197_			

NAME OF SERVICE _____

	INPATIENT	OUTPATIENT	TOTAL
197_			
197_			
197_			
Projected 197_			
Projected 197_			

NAME OF SERVICE _____

	INPATIENT	OUTPATIENT	TOTAL
197_			
197_			
197_			
Projected 197_			
Projected 197_			

VOLUME OF ON-SITE OUT-PATIENT DEPARTMENT

Provide the following information for three (3) years of historical records (if the individual clinic has not been operational for that long, provide only such information as is available). If, and only if, the project concerns these services, you must project the volume for the first two (2) years of normal operations after substantial completion of the project. Provide the number of cases only for the years for which it is available. Duplicate this page as necessary to provide data for all organized outpatient clinics.

CLINIC NAME_____

	Number of Cases*	Number of Visits *
197_		
197_		
197_		
Projected 197_		
Projected 197_		

CLINIC NAME_____

	Number of Cases*	Number of Visits *
197_		
197_		
197_		
Projected 197_		
Projected 197_		

CLINIC NAME_____

	Number of Cases*	Number of Visits *
197_		
197_		
197_		
Projected 197_		
Projected 197_		

CLINIC NAME_____

	Number of Cases*	Number of Visits *
197_		
197_		
197_		
Projected 197_		
Projected 197_		

*Cases = total number of individuals (or families) served by the OPD clinics in a fiscal year.

*Visits = Number of times that the "cases" served came to the OPD clinics in a fiscal year.

LOCATION OF ALL BEDS BY FLOOR AND SERVICE

LOCATION*	SERVICE	PRESENT NUMBER OF BEDS	ADDITIONS	DELETIONS	FUTURE NUMBER OF BEDS

*Location - Building, Year of Construction, and Floor

STAFFING PATTERNS

Provide a list of the type, number of full-time equivalents (compute on the basis of 2,080 hours annually per employee), and the estimated annual salary of employees in any category which will experience a change as a result of this project. (i.e., two additional neurosurgeons will be added to staff.) THIS CHART SHOULD BE COMPLETED ONLY IF THERE IS A CHANGE IN EMPLOYEES AS A RESULT OF THIS PROJECT.

Personnel Category		Present Number of Full-Time Equivalents	Additions	Deletions	Future Number of Full-Time Equivalents	Estimated Annual Salary *
Department	Job Title					

*Should include fringe benefits

SQUARE FOOTAGE CHART

NAME OF FUNCTIONAL AREA *	PRESENT SQUARE FEET**	SQUARE FEET TO BE: **		TOTAL SQUARE FEET **
		CONSTRUCTED	RENOVATED	

*Examples of functional areas are: nursing stations, laboratory, doctor's office, lobby, medical records, etc.

**Indicate whether the amount recorded is gross or net square feet.

ENVIRONMENTAL ASSESSMENT

SUBSEQUENT TO THE ENACTMENT OF MASSACHUSETTS GENERAL LAWS, CHAPTER 30, SECTIONS 61 AND 62 (ENVIRONMENTAL PROTECTION) AND THE REGULATIONS ISSUED THEREUNDER BY THE EXECUTIVE OFFICE OF HUMAN SERVICES, THE DEPARTMENT OF PUBLIC HEALTH IS REQUIRED TO DETERMINE THE IMPACT ON THE NATURAL ENVIRONMENT OF ALL PROJECTS. IN ORDER FOR THE DEPARTMENT TO MAKE SUCH A DETERMINATION, ANY APPLICANT WHOSE PROJECT INCLUDES NEW CONSTRUCTION MUST COMPLETE THIS QUESTIONNAIRE. THE FORM SHOULD BE COMPLETED AND SIGNED BY A REGISTERED ARCHITECT. APPLICANTS WHOSE PROJECTS WILL EXCEED FIVE MILLION DOLLARS IN CAPITAL COSTS ARE URGED TO CONTACT THE DEPARTMENT AND SEEK ASSISTANCE IN THIS MATTER.

RESPOND TO ALL OF THE FOLLOWING QUESTIONS, INDICATING BOTH SHORT-TERM AND LONG-TERM EFFECTS. IF YOU ANTICIPATE EFFORTS TO MITIGATE THE IMPACT, YOU MAY WISH TO BRIEFLY DESCRIBE ANY SUCH RELEVANT EFFORTS. ANSWER ONLY IF THE PROJECT INVOLVES NEW CONSTRUCTION.

1) Could the project result in a deleterious effect on the quality of any portion of the state's air resources?

   a) By what percentage can you expect traffic volume to increase as a result of this project? By what percentage do you expect the volume of services delivered to increase? By what percentage will your staff expand?

   b) What is the present CO concentration in the area, if known?

   c) Will any additional boiler stacks be constructed, or will the output from existing ones increase, and if so, to what extent?

   d) Will the project result in the generation of significant amounts of dust?

2) Could the project result in the generation of significant amounts of noise?

3) Could the project result in a deleterious effect on the quality of any portion of the state's water resources?

   a) What percentage of currently pervious surface will be made impervious?

   b) Can your facility utilize the existing municipal sewage and/or storm drainage systems, or will it be necessary to construct your own?

   c) Will the additional demand on the municipal storm drainage systems as a result of this project represent an increase of more than one percent of the system's remaining capacity?

   d) If there is an increase in the volume of sanitary sewage, will it be in excess of one percent of the remaining capacity of the existing system?

   e) Is the sanitary and storm water sewage system mixed or separate?

   f) Could the project change existing features of any of the Commonwealth's fresh or salt waters or wetlands?

   g) Could the project change existing features of any of the Commonwealth's beaches?

   h) Will the project be built in a designated flood plain, or in an area subject to flooding?

4) Could the project have a deleterious effect on the land?

   a) On how many acres will your facility be located? What percentage of this currently is or will be built lup after the completion of this project and what will be open space?

   b) Will the soil be more vulnerable to erosion as a result of this project?

   c) Will soil removal, grading, or filling be necessary?

   d) Could the project affect the potential use, extraction, or conservation of a scarce natural resource?

   e) Could the project result in the elimination of land presently utilized for agricultural purposes?

5) Could the project have a deleterious effect on vegetation or animal habitation?

   a) Does the project area serve as a habitat, food source, water source, nesting place, etc, for any rare or endangered wildlife or fish species?

   b) Could the project affect fish, wildlife, or plant life?

   c) Are there any rare or endangered plant species in the affected areas?

   d) Will any trees by removed?

6) Will the project have a deleterious effect on the surrounding area?

   a) What is the current use of the land, and that of the surrounding area?

   b) How many square feet will be constructed? How many stories (building height) will the facility be? How many stories of this will be below grade?

   c) Will any significant wind tunnel or shadow effects be created?

   d) Could the project affect the use of a recreational area or area of important aesthetic value?

   e) Is the area of important scenic value?

   f) Could the project affect an historical or archeological structure or site?

   g) Are any of the natural or man-made features in the affected area unique?

7) Will the project involve the use and disposal of potentially hazardous (i.e., radiological) materials?

8) Are the following services and facilities adequate to handle the demand generated by our project?

   a) Water facilities (both adequacy or volume and pressure)

   b) Sewage and storm drainage facilities

   c) Solid-waste disposal facilities

   d) Power and other utilities

   e) Local transportation facilities

   f) Vehicular arteries

9) Will the project require a variance from or result in a violation of, any statute, ordinance, by-law, regulation, or standard, the major purpose of which is to prevent or minimize damage to the environment?

10) Will the project require certification, authorization, or issuance of a permit by any local, state, or federal environmental control agency?

11) Will any variances from the zoning codes be required?

12) If there are official plans for the area, is this project consistent with those plans?

13) Will the project result in any form of environmental damage not included in the above questions?

Attach an 8½ by 11 inch map of the area, indicating on such map the current usage of the area and the location of your facility?

FINANCIAL FEASIBILITY AND CAPABILITY

I. Submit complete audited financial statements for the past five fiscal years.

II. Complete the tables which are outlined in the following pages. Read instructions for each carefully. Projects in which the estimated capital expenditure is less than $1,000,000 may omit Tables II, IV, V, and VII.

Table I	Estimated Capital Expenditure
Table Ia	Equipment List
Table II	Construction Cost by Functional Area
Table III	Source of Funds
Table IIIa	Alternative Method of Financing
Table IV	Existing Indebtedness
Table V	Cash Flow Schedule
Table VI	Statistical Data
Table VII	Source of Revenue
Table VIII	Financial Ratios

The concept of financial feasibility, its determinants and its significance in the Determination of Need process are addressed clearly in the Regulations--Reference Sections 5 (3), 5 (22), 5 (23), 31.5, 34.3 (1), 54.3 (7, 8, 9), 54.5, 55.2 (3, 6, 7). Applicants should review these sections prior to completion of the financial component of the application form.

TABLE I - ESTIMATED CAPITAL EXPENDITURE

Outlined below is a comprehensive list of all components of Estimated Capital Expenditure. Capital Expenditure as defined in the Regulations includes the site acquisition cost of land and buildings or fair market value of land and buildings if leased, the total cost of construction including all site improvements, the cost of all capital equipment or fair market value if leased, the cost of all professional fees associated with the development of the project, including fees for architectural, engineering, legal, accounting, feasibility, planning and financing services, any fee associated with financing including any bond discount, and the interest cost to be incurred on funds borrowed during construction (but not including the on-going interest expense of permanent financing).

The estimate to be computed below must be based on costs and interest rates as of the date of application and should not include any provision for inflation. The maximum estimate of total capital expenditure may not exceed the minimum by more than 25%. Do not include a provision for contingency.

		MINIMUM	MAXIMUM
1.	Land (acquisition cost).	$_____	$_____
2.	Building (acquisition cost).	$_____	$_____
3.	Construction Contract (include bonding costs). . .	$_____	$_____
4.	Fixed Equipment not in contract (see Table Ia) . .	$_____	$_____
5.	Movable Equipment (see Table Ia)	$_____	$_____
6.	Site Survey and Soil Investigation	$_____	$_____
7.	Architect's Fee.	$_____	$_____
8.	Architectural Supervision.	$_____	$_____
9.	Financing and Underwriting	$_____	$_____
10.	Net Construction Loan Interest (rate = _____%) .	$_____	$_____
11.	Legal Fees	$_____	$_____
12.	Other (Itemize).	$_____	$_____
	. . . . .	$_____	$_____
	. . . . .	$_____	$_____
ESTIMATED RANGE OF TOTAL CAPITAL EXPENDITURES.		$_____	$_____

TABLE Ia - DETAILED EQUIPMENT LIST

Complete a list of capital equipment which is a part of the project. Include the purchase price of the equipment or the fair market value if leased. The list should include all fixed and major movable equipment not included in the construction contract. Indicate specific location of equipment costing greater than $50,000, and indicate lease terms for equipment for which fair market value exceeds $100,000.

Fixed Equipment	Estimated Cost (use maximum) and Estimated Useful Life

Total . . . . . $_____

Major Movable

Total . . . . . $_____

TABLE II - ESTIMATED CONSTRUCTION COST PER SQUARE FOOT BY FUNCTIONAL AREA

Indicate below the maximum estimate of construction cost per square foot by major functional area. Costs should include fixed equipment included in construction contract but should not reflect site work and site utilities. It is recognized that these estimates may necessarily be based on preliminary plans and specifications, and approximate for this reason.

FUNCTIONAL AREA	AREA IN SQUARE FEET (GROSS)	CONSTRUCTION COST PER GROSS SQUARE FOOT

TABLE III - SOURCE OF FUNDS

PROPOSED FINANCING

Check anticipated source of permanent financing:

- ☐ Lending Institution (specify) _____
- ☐ Health and Educational Facilities Authority (HEFA)
- ☐ Federal Housing Administration Guarantee (FHA)
- ☐ Municipal Bonds
- ☐ Other Financing (specify) _____

SOURCE OF FUNDS

Permanent Loan (1) (2) (3)
- Principal . . . . . $_____
- Interest Rate (annual) . . . . . _____%
- Term . . . . . _____

Other Source: (specify) . . . . . $_____

Sponsors Investment:
- Cash*. . . . . _____
- Other. . . . . _____

Total Sponsors Investment . . . . . $_____

Total Capital Expenditure (Maximum from Table I). . . . . $_____

*Source of Cash:
- Endowment Funds. . . . . $_____
- Depreciation . . . . . _____
  (expected and/or funded)
- Operating Funds. . . . . _____
- Grants and Gifts . . . . . _____
  (specify)_____
- Other (specify). . . . . _____

TOTAL CASH . . . . . $_____

Collateral: Indicate the specific extent of mortagee's proposed collateral interest in real property, gross receipts, etc.

_____

_____

_____

Start-up Expenses: Approximate the extent to which funds are required for start-up expenses. Will the project require an increase in working capital?

_____

_____

_____

(1) If proposed debt service requires other than even periodic payments which include principal and interest, attach a separate sheet outlining the required schedule of payments of principal and interest over the term of the loan.

(2) Purchase/leaseback or similar arrangements which are in essence forms of secured financing should be indicated separately on an attachment indicating terms of the proposed arrangement.

TABLE IIIa - ALTERNATIVE METHOD OF FINANCING

Indicate a viable alternative to the means of financing outlined in Table III.

SOURCE OF FUNDS

Permanent Loan:		
Principal		$_____
Interest Rate (annual)	_____%	
Term	_____	
Other Source: (specify)		$_____
Sponsors Investment:		
Cash*	_____	
Other	_____	
Total Sponsors Investment		$_____
Total Capital Expenditure (Maximum from Table I)		$_____

*Source of Cash:

Endowment Funds	$_____
Depreciation (expected and/or funded)	_____
Operating Funds	_____
Grants and Gifts	_____
(specify)_____	
Other (specify)	_____

TOTAL CASH . . . . . $_____

TABLE IV - EXISTING INDEBTEDNESS AT PRESENT

(long term debt only)

	Lender	Initial Date of Loan	Amount of Loan Presently Outstanding	Initial Term	Interest Rate
1.					
2.					
3.					
4.					
5.					

Indicate the specific collateral interest of the lender for each of the loans above. If terms are other than even periodic payments which include principal and interest, outline the terms of amortization for each on a separate attachment.

If the proposed borrowing requires the refinancing of existing debt, indicate which of the above would be refinanced. Indicate any other existing debt to be refinanced.

TABLE V - CASH FLOW SCHEDULE

Historical Cash Flow

Line 1: This line indicates net revenue after operating gain or loss and including the effect of all non-operating revenues and expenses.

Line 2: Indicate only interest paid on long term debt. Do not include interest on short term borrowing or interest on inter-fund borrowings regardless of term.

Line 3: Include depreciation on all buildings and equipment.

Line 4: The sum of 1, 2, and 3 indicates cash available to service long term debt requirements of principal and interest.

Line 5: Indicate only debt service requirement (principal and interest) for the long term debt associated with the interest expense on Line 2.

Projected Cash Flow

Line 1: The first year of the projected revenue should represent the first full fiscal year of operation after substantial completion of the project. This line should indicate the institutions's total net revenue after giving effect to any changes in revenue and expense which will result from implementation of the project. Projections may be approximate.

Line 2: Increase interest that will be due on long term debt now in existence by any interest increase that will be due on new borrowings required for the project. The figure, therefore, should represent interest that will be required on all long term debt outstanding after project completion.

Line 3: Add to depreciation projected for existing assets, all depreciation which will result from new assets (buildings and equipment) required for the project.

Line 4: This line will indicate cash available for total debt service requirements after completion of the project.

Line 5: This line should indicate all debt service required after completion of the project; debt service for now existing long term debt that will be outstanding after project completion and debt service that will be required on any new borrowings incident to the project. Again, include here only debt service associated with the interest expense on Line 2.

TABLE V - CASH FLOW SCHEDULE

	197_	197_	197_	19__	PROJECTED 19__	19__
1. Excess (Deficiency) of Revenues over Expenses						
2. Add: Interest on Long Term Debt						
3. Add: Depreciation						
4. Total (1, 2, 3) = Cash Available for Debt Service						
5. Debt Service Required						
6. Ratio: Debt Service Coverage (4÷5)						

TABLE VI - STATISTICAL DATA

Projections for Table VI should indicate the first full year of operation <u>after</u> completion of the project.

ITEM	197_	197_	197_	197_	197_	PROJECTIONS 197_	197_
Number of licensed beds							
Occupancy Rate %	%	%	%	%	%	%	%
Total annual patient days							
Cost per patient day	$	$	$	$	$	$	$
Average revenue per patient day	$	$	$	$	$	$	$
Total outpatient visits							
Outpatient charges (Emergency)	$	$	$	$	$	$	$
Outpatient charges* (Clinic)	$	$	$	$	$	$	$

*Outline charges by different services below, if appropriate:

TABLE VII - SOURCE OF REVENUE

(Most Recent Fiscal Year)

INPATIENT SERVICES	Number of Patient Days	Net Revenue*	
		%	$
Blue Cross			
Public Assistance			
Medicaid			
Self Pay			
Commercial			
SUB TOTAL			
All other			
TOTAL			

OUTPATIENT SERVICES**	Number of Visits	Net Revenue	
		%	$
Blue Cross			
Public Assistance			
Medicaid			
SUB TOTAL			
All other (Self Pay, Commercial, etc.)			
TOTAL			
TOTAL INPATIENT AND OUTPATIENT SERVICES	-----		

*Net of deductions from revenue

**Omit entries when appropriate due to lack of recorded data

TABLE VIII - RATIOS

Please compute the following ratios based on the most recent fiscal year (197_).

1. Current Ratio:
   Current Assets/Current Liabilities _____

2. Debt to Worth:*
   Long Term Debt/Total Fund Balances
   (net out interfund borrowings) _____

3. Operating Ratio:
   Net Income (Loss) from Operations/Net Revenue from
   services to patients plus other operating revenue _____

4. Receivables Turnover:
   Net Patient Service Revenue/Net Accounts Receivable _____

5. Bad Debt Ratio:
   Uncollectable Accounts/Gross Patient Service Revenue _____

*Consolidate all fund balances. Ratio should reflect debt position after the effect of any new financing.

COMMONWEALTH OF MASSACHUSETTS
DEPARTMENT OF PUBLIC HEALTH

****

APPLICATION FOR

DETERMINATION OF NEED

****

UNIQUE APPLICATIONS

RENOVATIONS AND ANCILLARY SERVICES

NOTE: This application form may only be used for projects such as those defined in Section 5, (32), subparts (c) and (d) of the Massachusetts Determination of Need Regulations.

AFFIDAVIT OF TRUTHFULNESS AND PROPER SUBMISSION

_____
(Name of Applicant)

_____
(Address of Applicant)

hereby makes application for a determination of need under Chapter 111 or 111B of the General Laws and the Massachusetts Determination of Need Regulations.

for: ___ original licensure
___ substantial capital expenditure
___ substantial change in service

respecting a: ____ hospital
____ long term care facility
____ clinic
____ other (specify)_____

for the development of:

_____
(Name of facility and/or program)

at the following address:

_____
(Street and Town)

with the range of the estimated capital expenditure (Section 5 (3) of the Regulations):

_____Minimum _____Maximum

I, THE UNDERSIGNED, CERTIFY THAT:

1) I have read the Massachusetts Determination of Need Regulations;
2) I have read this application for Determination of Need including all exhibits and attachments, and the information contained therein is accurate and true;
3) I have submitted the required copies of this application to the State and appropriate regional comprehensive health planning agencies and, if relevant under Section 15 of the Regulations, to the Department of Elder Affairs;
4) I have caused notice to be published as required by Section 32 of the Regulations. The notice, true copies of which are enclosed, was published in the

_____on_____
(Name of Newspaper) (Date of Publication)

_____on_____
(Name of Newspaper) (Date of Publication)

5) The applicant is, or will be, the eventual licensee of the facility.
6) All material submitted to the Department by or on behalf of the applicant respecting the subject matter of this application is, to the best of my knowledge and belief, accurate and true.

Signed on the_____day of_____, 197_ under the pains and penalties of perjury.

_____
Signature of Authorized Official

_____
Position or Title

THIS FORM MUST BE NOTARIZED IN THE SPACE PROVIDED BELOW:

FILING FEE AND COMPUTATION SHEET

Every applicant, other than a government agency, filing under G.L. C. 111 S. 25c is required to accompany his application with a filing fee as indicated below:

(1) Where the proposed minimum point in the range of capital expenditures is one million ($1,000,000) or less, the filing fee shall be one hundred dollars ($100).

MINIMUM EXPENDITURE_____ FILING FEE_____

(2) Where the proposed minimum point in the range of capital expenditures is greater than one million dollars ($1,000,000), the filing fee shall be one hundred dollars ($100) plus .00005 of the excess over $1,000,000.

MINIMUM EXPENDITURE = $_____

-1,000,000.00

=_____ X .00005 = $_____

\+ 100.00

FILING FEE = _____

Applicant must attach here check or money order made payable to "The Commonwealth of Massachusetts," in the amount indicated above.

IF APPLICANT CLAIMS AN EXEMPTION FROM THE FILING FEE, HE MUST STATE HERE WHY HE IS EXEMPT FROM THE REQUIREMENT OF A FILING FEE, CITING THE APPLICABLE REGULATION.

NEWSPAPER NOTICE

Applicant attach here a true copy of the notices of publication, with date of publication, as required under Section 32 of the Massachusetts Determination of Need Regulations.

GENERAL IDENTIFYING INFORMATION

1) NAME OF APPLICANT _____

ADDRESS _____
STREET CITY COUNTY ZIPCODE

2) NAME OF FACILITY (IF DIFFERENT) _____

ADDRESS _____
STREET CITY COUNTY ZIPCODE

3) NAME OF PERSON TO BE CONTACTED REGARDING THIS APPLICATION:

_____ TITLE _____

ADDRESS _____
STREET CITY COUNTY ZIPCODE

TELEPHONE (____) _____

TYPE OF OWNERSHIP

4) _____CITY _____STATE PROPRIETARY: _____INDIVIDUAL

_____COUNTY _____PRIVATE NONPROFIT ORGANIZATION _____PARTNERSHIP

_____CORPORATION

5) List all officers, members of the board of directors, trustees, stockholders, partners, and any other individuals with any equity, or otherwise controlling, interest in the applicant. With respect to each person listed, please give their address, principal occupation, position with respect to the applicant, and amount, if any, of the percentage of stock, share of partnership, or other equity interest in the applicant. Attach as an appendix.

6) Have any of the individuals listed in response to Question 5:

a) Ever been involved in any proceeding before any local, state, or federal agency, or court, concerning any alleged violation of any local, state, or federal statute, regulation, ordinance, or other law?

b) Ever been involved as a debtor, or as an officer, director, or equity owner of a debtor company, in a proceeding under any chapter of the Federal Bankruptcy Act?

7) With respect to all individuals listed in Question 5:

a) List all other health care facilities, within or without the Commonwealth, in which they are officers, directors, trustees, stockholders, partners, or in which they hold any equity interest.

b) Do any of the individuals presently have, or intend to have, any business relationship, including but not limited to: supply company, construction company, mortgage company, etc., with the applicant.

8) If the applicant is a corporation: (attach articles in appendix)

a) date articles of incorporation approved _____

b) or, date articles of incorporation filed _____

9) Approximate date for:

Commencement of construction _____

Completion of construction _____

Commencement of operation _____

SYNOPSIS

PROVIDE A BRIEF (250 words) SYNOPSIS OF THE PROPOSAL WHICH SHOULD INCLUDE:

A) Name and address of the facility,

B) The geographical area to be served by the facility,

C) Description of proposed construction or renovation,

D) Brief description of the service (s) to be provided upon completion of the project. Include any anticipated changes in volume, costs, treatment modalities, etc., if applicable,

E) The range of the estimated capital expenditure.

SUPPORTING DOCUMENTATION

CHECK EACH DEPARTMENT WHICH WILL BE ALTERED:

	ADMINISTRATION		LABORATORY SUITE
	CENTRAL MEDICAL AND SURGICAL SUPPLY		MEDICAL RECORDS
	DIETARY DEPARTMENT		MORGE
	DOCTOR'S OFFICES		PATIENT UNIT
	EMERGENCY DEPARTMENT		PLUMBING WORK
	ENGINEERING SERVICE		PATHOLOGY
	ELECTRICAL WORK		PHARMACY
	EMPLOYEES FACILITIES		PHYSICAL THERAPY
	ELEVATOR		RADIOLOGY
	FIRE SAFETY CORRECTION		RESEARCH
	EMERGENCY GENERATOR		REHABILITATION DEPARTMENT
	HEATING AND VENTILATING		CENTRAL STORES
	HOUSEKEEPING		SURGICAL SUITE
	INHALATION THERAPY		OTHER_____
	LAUNDRY		OTHER_____

Throughout the remainder of this application, address your responses only to the Department (s) or service (s) checked above.

PROJECT NARRATIVE

Please answer the following questions; LIMIT ANSWERS TO THE SCOPE OF THE PROJECT.

A. Discuss in detail the purpose of this application. Include in the narrative your data regarding the following:

1. If the application is for renovations, repairs, or replacement of existing equipment, describe the existing and proposed physical facilities, including perceived deficiencies in any or all of following: Physical plant, volume,cost, and quality of care.

2. If the application is for new construction or equipment,describe existing service (s) and compare in detail with the proposed project. Include a description of the physical plant, volume of services, etc., and the hours and days of operation.

B. Discuss how approval and implementation of this project will satisfy the needs as perceived by the applicant. Discuss the alternatives to this project which were considered, and why this solution was chosen as the best method of fulfilling the perceived need. Also discuss the implications of no action or of more limited action.

C. Discuss in detail the financial implications of this project. You should include, but not be limited by, the following: The expected changes in staffing, fee schedules, the per diem rate, and other funding.

REQUIRED ATTACHMENTS

A. If this application is predicated upon deficiencies, please submit any of the following reports, if relevant:

1. Any underwriter's report regarding the areas addressed by this project.

2. Any Department of Public Health or Joint Commission on Accreditation deficiency letters regarding the specific areas addressed by this project.

3. Any Department of Public Safety or O.S.H.A. deficiency letters.

4. Any local fire reports.

B. Attach any preliminary architectural designs or floor diagrams, as well as existing floor diagrams, for the proposed project, if construction or renovation, and include a statement of the estimated building cost as certified by the architect or other authority.

INSTRUCTIONS FOR COMPLETION OF CHARTS

COMPLETE THE FOLLOWING CHARTS FOR EACH AREA WHICH WILL BE ALTERED.

Please note the following special instructions:

1. If the project concerns ancillary patient services, complete one chart for each service which will be affected.

   A. Volume of services to be measured by:

Department	Unit of Service
Anesthesiology	(1) Number of patients served (2) Hours of administration and use
Blood Bank	Number of 500cc units prepared for transfusions
Central Supply	Dollar value of processed requisitions
Delivery Rooms	Number of deliveries
Dietary	Number of meals served
Electrocardiology	Number of examinations
Inhalation Therapy	Number of hours oxygen is administered
Laboratory	Number of tests
Laundry	Pounds or pieces of laundry processed
Occupational Therapy	Hours of teaching and supervision
Pharmacy	Dollar value of prescriptions and requisitions processed
Physical Therapy	Number of treatments
Postoperative or Postanesthesia Recovery Rooms	Number of patient hours of service
Radiology:	
Diagnostic	1. Number of films taken 2. Number of fluoroscopic examinations
Therapy	1. Number of X-ray treatments 2. Number of radium implantations 3. Number of treatments by radioactive elements
Social Service	Hours of service

   B. Provide data of the actual experience for the three fiscal years preceding the application, and provide estimated data for the first two succeeding years of normal operations after completion of this project.

2. If the project concerns support services, complete the Square Footage Chart only for those areas involved in the scope of tnis application.

VOLUME OF ANCILLARY SERVICES

Complete for the departments and/or services indicated on the instruction sheet. If your records are kept differently, use your measure and indicate where you have done so. Complete projections only if the project concerns an ancillary service. Duplicate this form as is necessary to provide for all ancillary services.

NAME OF SERVICE _____

	INPATIENT	OUTPATIENT	TOTAL
197_			
197_			
197_			
Projected 197_			
Projected 197_			

NAME OF SERVICE _____

	INPATIENT	OUTPATIENT	TOTAL
197_			
197_			
197_			
Projected 197_			
Projected 197_			

NAME OF SERVICE _____

	INPATIENT	OUTPATIENT	TOTAL
197_			
197_			
197_			
Projected 197_			
Projected 197_			

NAME OF SERVICE _____

	INPATIENT	OUTPATIENT	TOTAL
197_			
197_			
197_			
Projected 197_			
Projected 197_			

SQUARE FOOTAGE CHART

NAME OF FUNCTIONAL AREA *	PRESENT SQUARE FEET**	SQUARE FEET TO BE: **		TOTAL SQUARE FEET **
		CONSTRUCTED	RENOVATED	

*Examples of functional areas are: nursing stations, laboratory, doctor's office, lobby, medical records, etc.

**Indicate whether the amount recorded is gross or net square feet.

ENVIRONMENTAL ASSESSMENT

SUBSEQUENT TO THE ENACTMENT OF MASSACHUSETTS GENERAL LAWS, CHAPTER 30, SECTIONS 61 AND 62 (ENVIRONMENTAL PROTECTION) AND THE REGULATIONS ISSUED THEREUNDER BY THE EXECUTIVE OFFICE OF HUMAN SERVICES, THE DEPARTMENT OF PUBLIC HEALTH IS REQUIRED TO DETERMINE THE IMPACT ON THE NATURAL ENVIRONMENT OF ALL PROJECTS. IN ORDER FOR THE DEPARTMENT TO MAKE SUCH A DETERMINATION, ANY APPLICANT WHOSE PROJECT INCLUDES NEW CONSTRUCTION MUST COMPLETE THIS QUESTIONNAIRE. THE FORM SHOULD BE COMPLETED AND SIGNED BY A REGISTERED ARCHITECT. APPLICANTS WHOSE PROJECTS WILL EXCEED FIVE MILLION DOLLARS IN CAPITAL COSTS ARE URGED TO CONTACT THE DEPARTMENT AND SEEK ASSISTANCE IN THIS MATTER.

RESPOND TO ALL OF THE FOLLOWING QUESTIONS, INDICATING BOTH SHORT-TERM AND LONG-TERM EFFECTS. IF YOU ANTICIPATE EFFORTS TO MITIGATE THE IMPACT, YOU MAY WISH TO BRIEFLY DESCRIBE ANY SUCH RELEVANT EFFORTS. ANSWER ONLY IF THE PROJECT INVOLVES NEW CONSTRUCTION.

1) Could the project result in a deleterious effect on the quality of any portion of the state's air resources?

   a) By what percentage can you expect traffic volume to increase as a result of this project? By what percentage do you expect the volume of services delivered to increase? By what percentage will your staff expand?

   b) What is the present CO concentration in the area, if known?

   c) Will any additional boiler stacks be constructed, or will the output from existing ones increase, and if so, to what extent?

   d) Will the project result in the generation of significant amounts of dust?

2) Could the project result in the generation of significant amounts of noise?

3) Could the project result in a deleterious effect on the quality of any portion of the state's water resources?

   a) What percentage of currently pervious surface will be made impervious?

   b) Can your facility utilize the existing municipal sewage and/or storm drainage systems, or will it be necessary to construct your own?

   c) Will the additional demand on the municipal storm drainage systems as a result of this project represent an increase of more than one percent of the system's remaining capacity?

   d) If there is an increase in the volume of sanitary sewage, will it be in excess of one percent of the remaining capacity of the existing system?

   e) Is the sanitary and storm water sewage system mixed or separate?

   f) Could the project change existing features of any of the Commonwealth's fresh or salt waters or wetlands?

   g) Could the project change existing features of any of the Commonwealth's beaches?

   h) Will the project be built in a designated flood plain, or in an area subject to flooding?

4) Could the project have a deleterious effect on the land?

   a) On how many acres will your facility be located? What percentage of this currently is or will be built lup after the completion of this project and what will be open space?

   b) Will the soil be more vulnerable to erosion as a result of this project?

   c) Will soil removal, grading, or filling be necessary?

   d) Could the project affect the potential use, extraction, or conservation of a scarce natural resource?

   e) Could the project result in the elimination of land presently utilized for agricultural purposes?

5) Could the project have a deleterious effect on vegetation or animal habitation?

a) Does the project area serve as a habitat, food source, water source, nesting place, etc, for any rare or endangered wildlife or fish species?

b) Could the project affect fish, wildlife, or plant life?

c) Are there any rare or endangered plant species in the affected areas?

d) Will any trees by removed?

6) Will the project have a deleterious effect on the surrounding area?

a) What is the current use of the land, and that of the surrounding area?

b) How many square feet will be constructed? How many stories (building height) will the facility be? How many stories of this will be below grade?

c) Will any significant wind tunnel or shadow effects be created?

d) Could the project affect the use of a recreational area or area of important aesthetic value?

e) Is the area of important scenic value?

f) Could the project affect an historical or archeological structure or site?

g) Are any of the natural or man-made features in the affected area unique?

7) Will the project involve the use and disposal of potentially hazardious (i.e., radiological) materials?

8) Are the following services and facilities adequate to handle the demand generated by our project?

a) Water facilities (both adequacy or volume and pressure)

b) Sewage and storm drainage facilities

c) Solid-waste disposal facilities

d) Power and other utilities

e) Local transportation facilities

f) Vehicular arteries

9) Will the project require a variance from or result in a violation of, any statute, ordinance, by-law, regulation, or standard, the major purpose of which is to prevent or minimize damage to the environment?

10) Will the project require certification, authorization, or issuance of a permit by any local, state, or federal environmental control agency?

11) Will any variances from the zoning codes be required?

12) If there are official plans for the area, is this project consistent with those plans?

13) Will the project result in any form of environmental damage not included in the above questions?

Attach an 8½ by 11 inch map of the area, indicating on such map the current usage of the area and the location of your facility?

FINANCIAL FEASIBILITY AND CAPABILITY

I. Submit a balance sheet, current to within one year, and income statement for the applicant, if available.

II. If the premises are to be leased, submit lease documents.

III. Provide line drawings of the space to be utilized and indicate the size of areas in square feet.

IVa. Prepare a projection of income and expense for the first three years of operation. Detail all items of expense, and supply a schedule of depreciation itemized by component, buildings, equipment, etc. Prepare projected year end balance sheets for each of the first three years of operation. Include the assumptions underlying the projections, including utilization assumptions, number of visits expected, etc.

IVb. Prepare a schedule of patient charges (existing, if applicable, and proposed) for each type of service.

IVc. Outline a breakdown of (existing, if applicable, and proposed) sources of revenue by category of payor. If any service is to be provided by contract, submit relevant contracts.

IVd. Indicate salaries of all personnel. Will any personnel provide service on the premises on a private, "fee for service" basis?

V. Complete the tables which are outlined in the following pages. Read instructions for each carefully.

Table I	Estimated Capital Expenditure
Table Ia	Equipment List
Table II	Source of Funds
Table IIa	Alternative Method of Financing

The concept of financial feasibility, its determinants and its significance in the Determination of Need process are addressed clearly in the Regulations--Reference Sections 5 (3), 5 (22), 5 (23), 31.5, 34.3 (1), 54.3 (7, 8, 9), 54.5, 55.2 (3, 6, 7). Applicants should review these sections prior to completion of the financial component of the application form.

TABLE I - ESTIMATED CAPITAL EXPENDITURE

Outlined below is a comprehensive list of all components of Estimated Capital Expenditure. Capital Expenditure as defined in the Regulations includes the site acquisition cost of land and buildings or fair market value of land and buildings if leased, the total cost of construction including all site improvements, the cost of all capital equipment or fair market value if leased, the cost of all professional fees associated with the development of the project, including fees for architectural, engineering, legal, accounting, feasibility planning and financing services, any fee associated with financing, and the interest cost to be incurred on funds borrowed during construction (but not including the on-going interest expense of permanent financing).

The estimate to be computed below must be based on costs and interest rates as of the date of application and should not include any provision for inflation. The maximum estimate of total capital expenditure may not exceed the minimum by more than 25%. Do not include a provision for contingency.

	MINIMUM	MAXIMUM
1. Land (acquisition cost).	$_____	$_____
2. Building (acquisition cost).	_____	_____
3. Construction Contract (include bonding costs). .	_____	_____
4. Fixed Equipment not in contract (see Table Ia) .	_____	_____
5. Movable Equipment (see Table Ia)	_____	_____
6. Site Survey and Soil Investigation	_____	_____
7. Architect's Fee.	_____	_____
8. Architectural Supervision.	_____	_____
9. Financing and Underwriting	_____	_____
10. Construction Loan Interest (rate = _____%). .	_____	_____
11. Legal Fees	_____	_____
12. Other (Itemize).	_____	_____
. . . . .	_____	_____
. . . . .	_____	_____
ESTIMATED RANGE OF TOTAL CAPITAL EXPENDITURES	$_____	$_____

TABLE Ia - DETAILED EQUIPMENT LIST

Complete a list of capital equipment which is a part of the project. Include the purchase price of the equipment or the fair market value if leased. The list should include all fixed and major movable equipment not included in the construction contract. Submit all agreements and contracts relating to the provision of equipment.

Fixed Equipment	Estimated Cost (use maximum) and Estimated Useful Life

Total . . . . . .$_____

Major Movable

Total . . . . . .$_____

TABLE II - SOURCE OF FUNDS

PROPOSED FINANCING

Check anticipated source of permanent financing:

Lending Institution (specify) _____
Federal Housing Administration Guarantee (FHA)
Other Financing (specify) _____

SOURCE OF FUNDS

Permanent Loan: (1) (2)		
Principal.		$_____
Interest Rate (annual)	_____%	
Term	_____	
Other Source: (specify).		$_____
Sponsors Investment:		
Cash*.	$_____	
Other.	_____	
Total Sponsors Investment		$_____
Total Capital Expenditure		$_____

*Source of Cash (specify):

Collateral: Indicate the specific extent of mortagee's proposed collateral interest in real property, gross receipts, etc.

_____

_____

_____

Working Capital Financing: Indicate the project's requirement for new working capital, including requirements due to start-up expenses.

_____

_____

_____

(1) If proposed debt service requires other than even periodic payments which include principal and interest, attach a separate sheet outlining the required schedule of payments of principal and interest over the term of the loan.

(2) Purchase/leaseback or similar arrangements which are in essence forms of secured financing should be indicated separately on an attachment indicating terms of the proposed arrangement.

TABLE IIa - ALTERNATIVE METHOD OF FINANCING

Indicate a viable alternative to the means of financing outlined in Table II.

SOURCE OF FUNDS

Permanent Loan:
- Principal. . . . . $_____
- Interest Rate (annual) . . . . . _____%
- Term . . . . . _____

Other Source: (specify). . . . . $_____

Sponsors Investment:
- Cash*. . . . . $_____
- Other. . . . . _____

Total Sponsors Investment . . . . . $_____

Total Capital Expenditure . . . . . $_____

*Source of Cash (specify):

COMMONWEALTH OF MASSACHUSETTS

DEPARTMENT OF PUBLIC HEALTH

****

APPLICATION FOR DETERMINATION OF NEED

****

UNIQUE APPLICATIONS
ORIGINAL LICENSURE

NOTE: This application form may only be used for projects such as those defined in Section 5, (32), subpart, (a) original licensure, of the "Massachusetts Determination of Need Regulations."

AFFIDAVIT OF TRUTHFULNESS AND PROPER SUBMISSION

_____
(Name of Applicant)

_____
(Address of Applicant)

hereby makes application for a determination of need under Chapter 111 or 111B of the General Laws and the Massachusetts Determination of Need Regulations.

for: ___ original licensure
___ substantial capital expenditure
___ substantial change in service

respecting a: ____ hospital
____ long term care facility
____ clinic
____ other (specify)_____

for the development of:

_____
(Name of facility and/or program)

at the following address:

_____
(Street and Town)

with the range of the estimated capital expenditure (Section 5 (3) of the Regulations):

_____Minimum _____Maximum

I, THE UNDERSIGNED, CERTIFY THAT:

1) I have read the Massachusetts Determination of Need Regulations;
2) I have read this application for Determination of Need including all exhibits and attachments, and the information contained therein is accurate and true;
3) I have submitted the required copies of this application to the State and appropriate regional comprehensive health planning agencies and, if relevant under Section 15 of the Regulations, to the Department of Elder Affairs;
4) I have caused notice to be published as required by Section 32 of the Regulations. The notice, true copies of which are enclosed, was published in the

_____on_____
(Name of Newspaper) (Date of Publication)

_____on_____
(Name of Newspaper) (Date of Publication)

5) The applicant is, or will be, the eventual licensee of the facility.
6) All material submitted to the Department by or on behalf of the applicant respecting the subject matter of this application is, to the best of my knowledge and belief, accurate and true.

Signed on the_____day of_____, 197_ under the pains and penalties of perjury.

_____
Signature of Authorized Official

_____
Position or Title

THIS FORM MUST BE NOTARIZED IN THE SPACE PROVIDED BELOW:

GENERAL IDENTIFYING INFORMATION

1) NAME OF APPLICANT _____

ADDRESS _____ _____ _____ _____
STREET CITY COUNTY ZIPCODE

2) NAME OF FACILITY (IF DIFFERENT) _____

ADDRESS _____ _____ _____ _____
STREET CITY COUNTY ZIPCODE

3) NAME OF PERSON TO BE CONTACTED REGARDING THIS APPLICATION:

_____ TITLE _____

ADDRESS _____ _____ _____ _____
STREET CITY COUNTY ZIPCODE

TELEPHONE (____) _____

TYPE OF OWNERSHIP

4) _____CITY _____STATE PROPRIETARY: _____INDIVIDUAL

_____COUNTY _____PRIVATE NONPROFIT ORGANIZATION _____PARTNERSHIP

_____CORPORATION

5) List all officers, members of the board of directors, trustees, stockholders, partners, and any other individuals with any equity, or otherwise controlling, interest in the applicant. With respect to each person listed, please give their address, principal occupation, position with respect to the applicant, and amount, if any, of the percentage of stock, share of partnership, or other equity interest in the applicant. Attach as an appendix.

6) Have any of the individuals listed in response to Question 5:

a) Ever been involved in any proceeding before any local, state, or federal agency, or court, concerning any alleged violation of any local, state, or federal statute, regulation, ordinance, or other law?

b) Ever been involved as a debtor, or as an officer, director, or equity owner of a debtor company, in a proceeding under any chapter of the Federal Bankruptcy Act?

7) With respect to all individuals listed in Question 5:

a) List all other health care facilities, within or without the Commonwealth, in which they are officers, directors, trustees, stockholders, partners, or in which they hold any equity interest.

b) Do any of the individuals presently have, or intend to have, any business relationship, including but not limited to: supply company, construction company, mortgage company, etc., with the applicant.

8) If the applicant is a corporation: (attach articles in appendix)

a) date articles of incorporation approved _____

b) or, date articles of incorporation filed _____

9) Approximate date for:

Commencement of construction _____

Completion of construction _____

Commencement of operation _____

FILING FEE AND COMPUTATION SHEET

Every applicant, other than a government agency, filing under G.L. C. 111 S. 25c is required to accompany his application with a filing fee as indicated below:

(1) Where the proposed minimum point in the range of capital expenditures is one million ($1,000,000) or less, the filing fee shall be one hundred dollars ($100).

MINIMUM EXPENDITURE_____ FILING FEE_____

(2) Where the proposed minimum point in the range of capital expenditures is greater than one million dollars ($1,000,000), the filing fee shall be one hundred dollars ($100) plus .00005 of the excess over $1,000,000.

MINIMUM EXPENDITURE = $_____

-1,000,000.00

= _____ X .00005 = $_____

\+ 100.00

FILING FEE = _____

Applicant must attach here check or money order made payable to "The Commonwealth of Massachusetts," in the amount indicated above.

IF APPLICANT CLAIMS AN EXEMPTION FROM THE FILING FEE, HE MUST STATE HERE WHY HE IS EXEMPT FROM THE REQUIREMENT OF A FILING FEE, CITING THE APPLICABLE REGULATION.

NEWSPAPER NOTICE

Applicant attach here a true copy of the notices of publication, with date of publication, as required under Section 32 of the Massachusetts Determination of Need Regulations.

SYNOPSIS

PROVIDE A BRIEF (250 words) SYNOPSIS OF THE PROPOSAL WHICH SHOULD INCLUDE:

A) Name and address of the facility,

B) The geographical area to be served by the facility,

C) Description of proposed construction or renovation,

D) Brief description of the service (s) to be provided upon completion of the project. Include any anticipated changes in volume, costs, treatment methodologies, etc., if applicable,

E) The range of the estimated capital expenditure, and a brief description of the cost implications of the project.

PROJECT NARRATIVE

PLEASE ANSWER THE FOLLOWING QUESTIONS:

1. Discuss the need which this application seeks to address and the manner in which you have become aware of it. Included within this discussion should be a general demographic description of the proposed service area and a listing of other health care providers including individual physicians who provide similar health care services in the area.

2. Discuss how approval and implementation of this project will satisfy the need outlined in Question 1. As well, discuss alternatives which were considered and the possible consequences of either not implementing this project or of implementing a project of reduced scope.

3. Briefly describe the project which you seek to undertake. Factors such as the following should be included: Services to be provided, staffing, referral back-up treatment, hours and days of operation, a description of the physical plant, any unique features of either the facility or the population to be served, and payment sources.

4. Describe any anticipated financial effects attributable to this project. (e.g. operational efficiency, reduction in staff, better utilization of facilities, etc.)

INSTRUCTIONS FOR COMPLETION OF CHARTS

COMPLETE THE FOLLOWING CHARTS FOR EACH SERVICE WHICH YOU WILL OFFER.

Please note the following special instructions:

1. Data should be reported for the fiscal year. Indicate the year for which information is provided.

2. Complete the square footage chart, including both gross and net square feet, for the entire facility.

REQUIRED ATTACHMENTS

Submit written agreements for transfer and/or referral with local agencies and institutions.

VOLUME OF SERVICES

(A) TYPE OF CLINIC OR ORGANIZED PROGRAM/SERVICE (LIST):	(B) NUMBER OF ☐ Cases or ☐ Families	(C) NUMBER OF ☐ Visits or ☐ Encounters	(D) HOURS AVAILABLE PER WEEK	or PER MONTH
1.				
2.				
3.				
4.				
5.				
6.				
7.				
8.				
9.				
10.				
11.				
12.				
▶TOTAL				

To report the information requested in columns (B), (C), and (D), use the following definitions:

Column (B) - Cases: The total number of individuals receiving outpatient or outclient services at your facility during your most recently completed fiscal year.

Families: Equivalent to "cases," except that records are kept by family (or other related group) rather than by individual, such that one case record may include more than one individual.

At the top of column (B), check which one of these statistics you are providing. If possible, give "Cases" rather than "Families."

Column (C) - Visits: The number of times that the "cases" served received outpatient services at your facility during your most recently completed fiscal year (one case may have one or many visits).

Encounters: The number of times an individual had a face-to-face contact with a provider (one who excercises independent judgment in providing services) at your facility. This is a further breakdown of a "Visit" - an individual who, during one visit, received services from both a gynecologist and a nutritionist, would have two encounters occurring in a single visit.

At the top of column (C), check which one of these statistics you are providing. If possible give "Visits" rather than "Encounters."

Column (D) - Hours Available: The number of hours per week or month during which a given clinic or service is actually available. This should not be confused with the hours during which the facility is open.

If the information requested in columns (B), (C) or (D) is not available for a specific clinic or organized service, please enter "Unknown" rather than leaving the column blank.

SQUARE FOOTAGE CHART

NAME OF FUNCTIONAL AREA *	PRESENT SQUARE FEET**	SQUARE FEET TO BE: **		TOTAL SQUARE FEET **
		CONSTRUCTED	RENOVATED	

*Examples of functional areas are: nursing stations, laboratory, doctor's office, lobby, medical records, etc.

**Indicate whether the amount recorded is gross or net square feet.

FINANCIAL FEASIBILITY AND CAPABILITY

I. Submit a balance sheet, current to within one year, and income statement for the applicant, if available.

II. If the premises are to be leased, submit lease documents.

III. Provide line drawings of the space to be utilized and indicate the size of areas in square feet.

IVa. Prepare a projection of income and expense for the first three years of operation. Detail all items of expense, and supply a schedule of depreciation itemized by component, buildings, equipment, etc. Prepare projected year end balance sheets for each of the first three years of operation. Include the assumptions underlying the projections, including utilization assumptions, number of visits expected, etc.

IVb. Prepare a schedule of patient charges (existing, if applicable, and proposed) for each type of service.

IVc. Outline a breakdown of (existing, if applicable, and proposed) sources of revenue by category of payor. If any service is to be provided by contract, submit relevant contracts.

IVd. Indicate salaries of all personnel. Will any personnel provide service on the premises on a private, "fee for service" basis?

V. Complete the tables which are outlined in the following pages. Read instructions for each carefully.

Table I	Estimated Capital Expenditure
Table Ia	Equipment List
Table II	Source of Funds
Table IIa	Alternative Method of Financing

The concept of financial feasibility, its determinants and its significance in the Determination of Need process are addressed clearly in the Regulations--Reference Sections 5 (3), 5 (22), 5 (23), 31.5, 34.3 (1), 54.3 (7, 8, 9), 54.5, 55.2 (3, 6, 7). Applicants should review these sections prior to completion of the financial component of the application form.

TABLE I - ESTIMATED CAPITAL EXPENDITURE

Outlined below is a comprehensive list of all components of Estimated Capital Expenditure. Capital Expenditure as defined in the Regulations includes the site acquisition cost of land and buildings or fair market value of land and buildings if leased, the total cost of construction including all site improvements, the cost of all capital equipment or fair market value if leased, the cost of all professional fees associated with the development of the project, including fees for architectural, engineering, legal, accounting, feasibility planning and financing services, any fee associated with financing, and the interest cost to be incurred on funds borrowed during construction (but not including the on-going interest expense of permanent financing).

The estimate to be computed below must be based on costs and interest rates as of the date of application and should not include any provision for inflation. The maximum estimate of total capital expenditure may not exceed the minimum by more than 25%. Do not include a provision for contingency.

		MINIMUM	MAXIMUM
1.	Land (acquisition cost).	$_____	$_____
2.	Building (acquisition cost).	_____	_____
3.	Construction Contract (include bonding costs). .	_____	_____
4.	Fixed Equipment not in contract (see Table Ia) .	_____	_____
5.	Movable Equipment (see Table Ia)	_____	_____
6.	Site Survey and Soil Investigation	_____	_____
7.	Architect's Fee.	_____	_____
8.	Architectural Supervision.	_____	_____
9.	Financing and Underwriting	_____	_____
10.	Construction Loan Interest (rate = _____%). .	_____	_____
11.	Legal Fees	_____	_____
12.	Other (Itemize).	_____	_____
	. . . . .	_____	_____
	. . . . .	_____	_____
ESTIMATED RANGE OF TOTAL CAPITAL EXPENDITURES		$_____	$_____

TABLE 1a - DETAILED EQUIPMENT LIST

Complete a list of capital equipment which is a part of the project. Include the purchase price of the equipment or the fair market value if leased. The list should include all fixed and major movable equipment not included in the construction contract. Submit all agreements and contracts relating to the provision of equipment.

Fixed Equipment	Estimated Cost (use maximum) and Estimated Useful Life

Total . . . . . .$_____

Major Movable

Total . . . . . .$_____

TABLE II - SOURCE OF FUNDS

PROPOSED FINANCING

Check anticipated source of permanent financing:

Lending Institution (specify) _____
Federal Housing Administration Guarantee (FHA)
Other Financing (specify) _____

SOURCE OF FUNDS

Permanent Loan: (1) (2)
Principal. . . . . $_____
Interest Rate (annual) . . . . . _____%
Term . . . . . _____
Other Source: (specify). . . . . $_____

Sponsors Investment:
Cash*. . . . . $_____
Other. . . . . _____
Total Sponsors Investment . . . . . $_____

Total Capital Expenditure . . . . . $_____

*Source of Cash (specify):

Collateral: Indicate the specific extent of mortagee's proposed collateral interest in real property, gross receipts, etc.

_____

_____

_____

Working Capital Financing: Indicate the project's requirement for new working capital, including requirements due to start-up expenses.

_____

_____

_____

(1) If proposed debt service requires other than even periodic payments which include principal and interest, attach a separate sheet outlining the required schedule of payments of principal and interest over the term of the loan.

(2) Purchase/leaseback or similar arrangements which are in essence forms of secured financing should be indicated separately on an attachment indicating terms of the proposed arrangement.

TABLE IIa - ALTERNATIVE METHOD OF FINANCING

Indicate a viable alternative to the means of financing outlined in Table II.

SOURCE OF FUNDS

Permanent Loan:
- Principal. . . . . $_____
- Interest Rate (annual) . . . . . _____%
- Term . . . . . _____

Other Source: (specify). . . . . $_____

Sponsors Investment:
- Cash*. . . . . $_____
- Other. . . . . _____

Total Sponsors Investment . . . . . $_____

Total Capital Expenditure . . . . . $_____

*Source of Cash (specify):

COMMONWEALTH OF MASSACHUSETTS

DEPARTMENT OF PUBLIC HEALTH

****

APPLICATION FOR
DETERMINATION OF NEED

****

CLINIC

AFFIDAVIT OF TRUTHFULNESS AND PROPER SUBMISSION

_____
(Name of Applicant)

_____
(Address of Applicant)

hereby makes application for a determination of need under Chapter 111 or 111B of the General Laws and the Massachusetts Determination of Need Regulations.

for: ___ original licensure
___ substantial capital expenditure
___ substantial change in service

respecting a: ____ hospital
____ long term care facility
____ clinic
____ other (specify)_____

for the development of:

_____
(Name of facility and/or program)

at the following address:

_____
(Street and Town)

with the range of the estimated capital expenditure (Section 5 (3) of the Regulations):

_____Minimum _____Maximum

I, THE UNDERSIGNED, CERTIFY THAT:

1) I have read the Massachusetts Determination of Need Regulations;
2) I have read this application for Determination of Need including all exhibits and attachments, and the information contained therein is accurate and true;
3) I have submitted the required copies of this application to the State and appropriate regional comprehensive health planning agencies and, if relevant under Section 15 of the Regulations, to the Department of Elder Affairs;
4) I have caused notice to be published as required by Section 32 of the Regulations. The notice, true copies of which are enclosed, was published in the

_____on_____
(Name of Newspaper) (Date of Publication)

_____on_____
(Name of Newspaper) (Date of Publication)

5) The applicant is, or will be, the eventual licensee of the facility.
6) All material submitted to the Department by or on behalf of the applicant respecting the subject matter of this application is, to the best of my knowledge and belief, accurate and true.

Signed on the_____day of_____, 197_ under the pains and penalties of perjury.

_____
Signature of Authorized Official

_____
Position or Title

THIS FORM MUST BE NOTARIZED IN THE SPACE PROVIDED BELOW:

FILING FEE AND COMPUTATION SHEET

Every applicant, other than a government agency, filing under G.L. C. 111 S. 25c is required to accompany his application with a filing fee as indicated below:

(1) Where the proposed minimum point in the range of capital expenditures is one million ($1,000,000) or less, the filing fee shall be one hundred dollars ($100).

MINIMUM EXPENDITURE_____ FILING FEE_____

(2) Where the proposed minimum point in the range of capital expenditures is greater than one million dollars ($1,000,000), the filing fee shall be one hundred dollars ($100) plus .00005 of the excess over $1,000,000.

MINIMUM EXPENDITURE = $_____

-1,000,000.00

=_____ X .00005 = $_____

\+ 100.00

FILING FEE = _____

Applicant must attach here check or money order made payable to "The Commonwealth of Massachusetts," in the amount indicated above.

IF APPLICANT CLAIMS AN EXEMPTION FROM THE FILING FEE, HE MUST STATE HERE WHY HE IS EXEMPT FROM THE REQUIREMENT OF A FILING FEE, CITING THE APPLICABLE REGULATION.

NEWSPAPER NOTICE

Applicant attach here a true copy of the notices of publication, with date of publication, as required under Section 32 of the Massachusetts Determination of Need Regulations.

GENERAL IDENTIFYING INFORMATION

1) NAME OF APPLICANT _____

ADDRESS _____
STREET CITY COUNTY ZIPCODE

2) NAME OF FACILITY (IF DIFFERENT) _____

ADDRESS _____
STREET CITY COUNTY ZIPCODE

3) NAME OF PERSON TO BE CONTACTED REGARDING THIS APPLICATION:

_____ TITLE _____

ADDRESS _____
STREET CITY COUNTY ZIPCODE

TELEPHONE (____) _____

TYPE OF OWNERSHIP

4) _____CITY _____STATE PROPRIETARY: _____INDIVIDUAL

_____COUNTY _____PRIVATE NONPROFIT ORGANIZATION _____PARTNERSHIP

_____CORPORATION

5) List all officers, members of the board of directors, trustees, stockholders, partners, and any other individuals with any equity, or otherwise controlling, interest in the applicant. With respect to each person listed, please give their address, principal occupation, position with respect to the applicant, and amount, if any, of the percentage of stock, share of partnership, or other equity interest in the applicant. Attach as an appendix.

6) Have any of the individuals listed in response to Question 5:

a) Ever been involved in any proceeding before any local, state, or federal agency, or court, concerning any alleged violation of any local, state, or federal statute, regulation, ordinance, or other law?

b) Ever been involved as a debtor, or as an officer, director, or equity owner of a debtor company, in a proceeding under any chapter of the Federal Bankruptcy Act?

7) With respect to all individuals listed in Question 5:

a) List all other health care facilities, within or without the Commonwealth, in which they are officers, directors, trustees, stockholders, partners, or in which they hold any equity interest.

b) Do any of the individuals presently have, or intend to have, any business relationship, including but not limited to: supply company, construction company, mortgage company, etc., with the applicant.

8) If the applicant is a corporation: (attach articles in appendix)

a) date articles of incorporation approved _____

b) or, date articles of incorporation filed _____

9) Approximate date for:

Commencement of construction _____

Completion of construction _____

Commencement of operation _____

SYNOPSIS

PROVIDE A BRIEF (250 words) SYNOPSIS OF THE PROPOSAL WHICH SHOULD INCLUDE:

A) Name and address of the facility,

B) The geographical area to be served by the facility,

C) Description of proposed construction or renovation,

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PROJECT NARRATIVE

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1. Discuss the need which this application seeks to address and the manner in which you have become aware of it. Included within this discussion should be a general demographic description of the proposed service area and a listing of other health care providers including individual physicians who provide similar health care services in the area.

2. Discuss how approval and implementation of this project will satisfy the need outlined in Question 1. As well, discuss alternatives which were considered and the possible consequences of either not implementing this project or of implementing a project of reduced scope.

3. Discuss both the internal and external (e.g. long-range planning committee, regional health planning agency) for this project. Discuss the relationship of this project to the long-range plans of the clinic.

4. Briefly discribe the project which you seek to undertake. Factors such as the following should be included: Services to be provided, staffing, referral, back-up treatment, hours and days of operation, a description of the physical plant, accessibility of the facility, any unique features of either the facility or the population to be served, and payment sources.

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If the information requested in columns (B), (C) or (D) is not available for a specific clinic or organized service, please enter "Unknown" rather than leaving the column blank.

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NAME OF FUNCTIONAL AREA *	PRESENT SQUARE FEET**	SQUARE FEET TO BE: **		TOTAL SQUARE FEET **
		CONSTRUCTED	RENOVATED	

*Examples of functional areas are: nursing stations, laboratory, doctor's office, lobby, medical records, etc.

**Indicate whether the amount recorded is gross or net square feet.

ENVIRONMENTAL ASSESSMENT

SUBSEQUENT TO THE ENACTMENT OF MASSACHUSETTS GENERAL LAWS, CHAPTER 30. SECTIONS 61 AND 62 (ENVIRONMENTAL PROTECTION) AND THE REGULATIONS ISSUED THEREUNDER BY THE EXECUTIVE OFFICE OF HUMAN SERVICES, THE DEPARTMENT OF PUBLIC HEALTH IS REQUIRED TO DETERMINE THE IMPACT ON THE NATURAL ENVIRONMENT OF ALL PROJECTS. IN ORDER FOR THE DEPARTMENT TO MAKE SUCH A DETERMINATION, ANY APPLICANT WHOSE PROJECT INCLUDES NEW CONSTRUCTION MUST COMPLETE THIS QUESTIONNAIRE. THE FORM SHOULD BE COMPLETED AND SIGNED BY A REGISTERED ARCHITECT. APPLICANTS WHOSE PROJECTS WILL EXCEED FIVE MILLION DOLLARS IN CAPITAL COSTS ARE URGED TO CONTACT THE DEPARTMENT AND SEEK ASSISTANCE IN THIS MATTER.

RESPOND TO ALL OF THE FOLLOWING QUESTIONS, INDICATING BOTH SHORT-TERM AND LONG-TERM EFFECTS. IF YOU ANTICIPATE EFFORTS TO MITIGATE THE IMPACT, YOU MAY WISH TO BRIEFLY DESCRIBE ANY SUCH RELEVANT EFFORTS. ANSWER ONLY IF THE PROJECT INVOLVES NEW CONSTRUCTION.

1) Could the project result in a deleterious effect on the quality of any portion of the state's air resources?

   a) By what percentage can you expect traffic volume to increase as a result of this project? By what percentage do you expect the volume of services delivered to increase? By what percentage will your staff expand?

   b) What is the present CO concentration in the area, if known?

   c) Will any additional boiler stacks be constructed, or will the output from existing ones increase, and if so, to what extent?

   d) Will the project result in the generation of significant amounts of dust?

2) Could the project result in the generation of significant amounts of noise?

3) Could the project result in a deleterious effect on the quality of any portion of the state's water resources?

   a) What percentage of currently pervious surface will be made impervious?

   b) Can your facility utilize the existing municipal sewage and/or storm drainage systems, or will it be necessary to construct your own?

   c) Will the additional demand on the municipal storm drainage systems as a result of this project represent an increase of more than one percent of the system's remaining capacity?

   d) If there is an increase in the volume of sanitary sewage, will it be in excess of one percent of the remaining capacity of the existing system?

   e) Is the sanitary and storm water sewage system mixed or separate?

   f) Could the project change existing features of any of the Commonwealth's fresh or salt waters or wetlands?

   g) Could the project change existing features of any of the Commonwealth's beaches?

   h) Will the project be built in a designated flood plain, or in an area subject to flooding?

4) Could the project have a deleterious effect on the land?

   a) On how many acres will your facility be located? What percentage of this currently is or will be built lup after the completion of this project and what will be open space?

   b) Will the soil be more vulnerable to erosion as a result of this project?

   c) Will soil removal, grading, or filling be necessary?

   d) Could the project affect the potential use, extraction, or conservation of a scarce natural resource?

   e) Could the project result in the elimination of land presently utilized for agricultural purposes?

5) Could the project have a deleterious effect on vegetation or animal habitation?

   a) Does the project area serve as a habitat, food source, water source, nesting place, etc, for any rare or endangered wildlife or fish species?

   b) Could the project affect fish, wildlife, or plant life?

   c) Are there any rare or endangered plant species in the affected areas?

   d) Will any trees by removed?

6) Will the project have a deleterious effect on the surrounding area?

   a) What is the current use of the land, and that of the surrounding area?

   b) How many square feet will be constructed? How many stories (building height) will the facility be? How many stories of this will be below grade?

   c) Will any significant wind tunnel or shadow effects be created?

   d) Could the project affect the use of a recreational area or area of important aesthetic value?

   e) Is the area of important scenic value?

   f) Could the project affect an historical or archeological structure or site?

   g) Are any of the natural or man-made features in the affected area unique?

7) Will the project involve the use and disposal of potentially hazardous (i.e., radiological) materials?

8) Are the following services and facilities adequate to handle the demand generated by our project?

   a) Water facilities (both adequacy or volume and pressure)

   b) Sewage and storm drainage facilities

   c) Solid-waste disposal facilities

   d) Power and other utilities

   e) Local transportation facilities

   f) Vehicular arteries

9) Will the project require a variance from or result in a violation of, any statute, ordinance, by-law, regulation, or standard, the major purpose of which is to prevent or minimize damage to the environment?

10) Will the project require certification, authorization, or issuance of a permit by any local, state, or federal environmental control agency?

11) Will any variances from the zoning codes be required?

12) If there are official plans for the area, is this project consistent with those plans?

13) Will the project result in any form of environmental damage not included in the above questions?

Attach an 8½ by 11 inch map of the area, indicating on such map the current usage of the area and the location of your facility?

FINANCIAL FEASIBILITY AND CAPABILITY

I. Submit a balance sheet, current to within one year, and income statement for the applicant, if available.

II. If the premises are to be leased, submit lease documents.

III. Provide line drawings of the space to be utilized and indicate the size of areas in square feet.

IVa. Prepare a projection of income and expense for the first three years of operation. Detail all items of expense, and supply a schedule of depreciation itemized by component, buildings, equipment, etc. Prepare projected year end balance sheets for each of the first three years of operation. Include the assumptions underlying the projections, including utilization assumptions, number of visits expected, etc.

IVb. Prepare a schedule of patient charges (existing, if applicable, and proposed) for each type of service.

IVc. Outline a breakdown of (existing, if applicable, and proposed) sources of revenue by category of payor. If any service is to be provided by contract, submit relevant contracts.

IVd. Indicate salaries of all personnel. Will any personnel provide service on the premises on a private, "fee for service" basis?

V. Complete the tables which are outlined in the following pages. Read instructions for each carefully.

Table I	Estimated Capital Expenditure
Table Ia	Equipment List
Table II	Source of Funds
Table IIa	Alternative Method of Financing

The concept of financial feasibility, its determinants and its significance in the Determination of Need process are addressed clearly in the Regulations--Reference Sections 5 (3), 5 (22), 5 (23), 31.5, 34.3 (1), 54.3 (7, 8, 9), 54.5, 55.2 (3, 6, 7). Applicants should review these sections prior to completion of the financial component of the application form.

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Outlined below is a comprehensive list of all components of Estimated Capital Expenditure. Capital Expenditure as defined in the Regulations includes the site acquisition cost of land and buildings or fair market value of land and buildings if leased, the total cost of construction including all site improvements, the cost of all capital equipment or fair market value if leased, the cost of all professional fees associated with the development of the project, including fees for architectural, engineering, legal, accounting, feasibility planning and financing services, any fee associated with financing, and the interest cost to be incurred on funds borrowed during construction (but not including the on-going interest expense of permanent financing).

The estimate to be computed below must be based on costs and interest rates as of the date of application and should not include any provision for inflation. The maximum estimate of total capital expenditure may not exceed the minimum by more than 25%. Do not include a provision for contingency.

		MINIMUM	MAXIMUM
1.	Land (acquisition cost).	$_____	$_____
2.	Building (acquisition cost).	_____	_____
3.	Construction Contract (include bonding costs). .	_____	_____
4.	Fixed Equipment not in contract (see Table Ia) .	_____	_____
5.	Movable Equipment (see Table Ia)	_____	_____
6.	Site Survey and Soil Investigation	_____	_____
7.	Architect's Fee.	_____	_____
8.	Architectural Supervision.	_____	_____
9.	Financing and Underwriting	_____	_____
10.	Construction Loan Interest (rate = _____%). .	_____	_____
11.	Legal Fees	_____	_____
12.	Other (Itemize).	_____	_____
	. . . . .	_____	_____
	. . . . .	_____	_____
	ESTIMATED RANGE OF TOTAL CAPITAL EXPENDITURES	$_____	$_____

TABLE Ia - DETAILED EQUIPMENT LIST

Complete a list of capital equipment which is a part of the project. Include the purchase price of the equipment or the fair market value if leased. The list should include all fixed and major movable equipment not included in the construction contract. Submit all agreements and contracts relating to the provision of equipment.

Fixed Equipment	Estimated Cost (use maximum) and Estimated Useful Life

Total . . . . . .$_____

Major Movable

Total . . . . . .$_____

TABLE II - SOURCE OF FUNDS

PROPOSED FINANCING

Check anticipated source of permanent financing:

Lending Institution (specify) _____
Federal Housing Administration Guarantee (FHA)
Other Financing (specify) _____

SOURCE OF FUNDS

Permanent Loan: (1) (2)
Principal . . . . . $_____
Interest Rate (annual) . . . . . _____%
Term . . . . . _____
Other Source: (specify) . . . . . $_____

Sponsors Investment:
Cash* . . . . . $_____
Other . . . . . _____
Total Sponsors Investment . . . . . $_____

Total Capital Expenditure . . . . . $_____

***Source of Cash** (specify):

Collateral: Indicate the specific extent of mortagee's proposed collateral interest in real property, gross receipts, etc.

_____

_____

_____

Working Capital Financing: Indicate the project's requirement for new working capital, including requirements due to start-up expenses.

_____

_____

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(1) If proposed debt service requires other than even periodic payments which include principal and interest, attach a separate sheet outlining the required schedule of payments of principal and interest over the term of the loan.

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TABLE IIa - ALTERNATIVE METHOD OF FINANCING

Indicate a viable alternative to the means of financing outlined in Table II.

SOURCE OF FUNDS

Permanent Loan:
- Principal. . . . . $_____
- Interest Rate (annual) . . . . . _____%
- Term . . . . . _____

Other Source: (specify). . . . . $_____

Sponsors Investment:
- Cash*. . . . . $_____
- Other. . . . . _____

Total Sponsors Investment . . . . . $_____

Total Capital Expenditure . . . . . $_____

*Source of Cash (specify):

COMMONWEALTH OF MASSACHUSETTS

DEPARTMENT OF PUBLIC HEALTH

****

APPLICATION FOR

DETERMINATION OF NEED

****

UNIQUE APPLICATIONS

ALCOHOLISM FACILITIES

NOTE: This application form may only be used for projects such as those defined in Section 5, (32), subpart (b), alcoholism facilities, of the "Massachusetts Determination of Need Regulations."

AFFIDAVIT OF TRUTHFULNESS AND PROPER SUBMISSION

_____
(Name of Applicant)

_____
(Address of Applicant)

hereby makes application for a determination of need under Chapter 111 or 111B of the General Laws and the Massachusetts Determination of Need Regulations.

for: ___ original licensure
___ substantial capital expenditure
___ substantial change in service

respecting a: ____ hospital
____ long term care facility
____ clinic
____ other (specify)_____

for the development of:

_____
(Name of facility and/or program)

at the following address:

_____
(Street and Town)

with the range of the estimated capital expenditure (Section 5 (3) of the Regulations):

_____Minimum _____Maximum

I, THE UNDERSIGNED, CERTIFY THAT:

1) I have read the Massachusetts Determination of Need Regulations;
2) I have read this application for Determination of Need including all exhibits and attachments, and the information contained therein is accurate and true;
3) I have submitted the required copies of this application to the State and appropriate regional comprehensive health planning agencies and, if relevant under Section 15 of the Regulations, to the Department of Elder Affairs;
4) I have caused notice to be published as required by Section 32 of the Regulations. The notice, true copies of which are enclosed, was published in the

_____on_____
(Name of Newspaper) (Date of Publication)

_____on_____
(Name of Newspaper) (Date of Publication)

5) The applicant is, or will be, the eventual licensee of the facility.
6) All material submitted to the Department by or on behalf of the applicant respecting the subject matter of this application is, to the best of my knowledge and belief, accurate and true.

Signed on the_____day of_____, 197_ under the pains and penalties of perjury.

_____
Signature of Authorized Official

_____
Position or Title

THIS FORM MUST BE NOTARIZED IN THE SPACE PROVIDED BELOW:

FILING FEE AND COMPUTATION SHEET

Every applicant, other than a government agency, filing under G.L. C. 111 S. 25c is required to accompany his application with a filing fee as indicated below:

(1) Where the proposed minimum point in the range of capital expenditures is one million ($1,000,000) or less, the filing fee shall be one hundred dollars ($100).

MINIMUM EXPENDITURE_____ FILING FEE_____

(2) Where the proposed minimum point in the range of capital expenditures is greater than one million dollars ($1,000,000), the filing fee shall be one hundred dollars ($100) plus .00005 of the excess over $1,000,000.

MINIMUM EXPENDITURE = $_____

-1,000,000.00

=_____ X .00005 = $_____

\+ 100.00

FILING FEE = _____

Applicant must attach here check or money order made payable to "The Commonwealth of Massachusetts," in the amount indicated above.

IF APPLICANT CLAIMS AN EXEMPTION FROM THE FILING FEE, HE MUST STATE HERE WHY HE IS EXEMPT FROM THE REQUIREMENT OF A FILING FEE, CITING THE APPLICABLE REGULATION.

NEWSPAPER NOTICE

Applicant attach here a true copy of the notices of publication, with date of publication, as required under Section 32 of the Massachusetts Determination of Need Regulations.

GENERAL IDENTIFYING INFORMATION

1) NAME OF APPLICANT _____

ADDRESS _____
STREET CITY COUNTY ZIPCODE

2) NAME OF FACILITY (IF DIFFERENT) _____

ADDRESS _____
STREET CITY COUNTY ZIPCODE

3) NAME OF PERSON TO BE CONTACTED REGARDING THIS APPLICATION.

_____ TITLE _____

ADDRESS _____
STREET CITY COUNTY ZIPCODE

TELEPHONE (____) _____

3a) TYPE OF FACILITY: _____ DETOXIFICATION CENTER _____ HALFWAY HOUSE

3b) NUMBER OF BEDS = _____

3c) CONTRACT WITH THE DEPARTMENT OF PUBLIC HEALTH DIVISION OF ALCOHOLISM: _____ YES _____ NO

TYPE OF OWNERSHIP

4) _____ CITY _____ STATE PROPRIETARY: _____ INDIVIDUAL

_____ COUNTY _____ PRIVATE NONPROFIT ORGANIZATION _____ PARTNERSHIP

_____ CORPORATION

5) List all officers, members of the board of directors, trustees, stockholders, partners, and any other individuals with any equity, or otherwise controlling, interest in the applicant. With respect to each person listed, please give their address, principal occupation, position with respect to the applicant, and amount, if any, of the percentage of stock, share of partnership, or other equity interest in the applicant. Attach as an appendix.

6) Have any of the individuals listed in response to Question 5:

a) Ever been involved in any proceeding before any local, state, or federal agency, or court, concerning any alleged violation of any local, state, or federal statute, regulation, ordinance, or other law?

b) Ever been involved as a debtor, or as an officer, director, or equity owner of a debtor company, in a proceeding under any chapter of the Federal Bankruptcy Act?

7) With respect to all individuals listed in Question 5:

a) List all other health care facilities, within or without the Commonwealth, in which they are officers, directors, trustees, stockholders, partners, or in which they hold any equity interest.

b) Do any of the individuals presently have, or intend to have, any business relationship, including but not limited to: supply company, construction company, mortgage company, etc., with the applicant.

8) If the applicant is a corporation: (attach articles in appendix)

a) date articles of incorporation approved _____

b) or, date articles of incorporation filed _____

9) Approximate date for:

Commencement of construction _____

Completion of construction _____

Commencement of operation _____

SYNOPSIS

PROVIDE A BRIEF (250 words) SYNOPSIS OF THE PROPOSAL WHICH SHOULD INCLUDE:

A) Name and address of the facility,

B) The primary and secondary areas to be served by the facility,

C) A brief description of the services provided,

D) The range of the estimated capital expenditure, and a brief description of the cost implications of the project.

PROJECT NARRATIVE

PLEASE ANSWER THE FOLLOWING QUESTIONS:

A. Discuss in detail the purpose of this application, including the following:

1) The objectives of the program and the manner in which they will be satisfied;

2) The need for the project, citing total population in the Department of Public Health regions to be served; estimated alcoholic population, as computed by the Division of Alcoholism, in the Department of Public Health regions to be served; the actual or estimated number of admissions to the facility in one twelve (12) month period; bed utilization rate during the previous calendar year, if available; the availability of similar services in the region; any additional statistical data which you feel supports the need for the project;

3) Community participation in the planning of this project and affiliations with other individuals or agencies in the area;

4) The administration of the facility, including the staffing and the staff/resident ratio;

5) A detailed program description, including lengths of stay, utilization rates, eligibility, admissions procedures, counseling and other programmatic elements, discharge and follow-up procedures.

6) A description of the physical facility. (include floor plans and indicate the total square footage)

B. Discuss how approval and implementation of this project will satisfy the needs as perceived by the applicant. Also, discuss the consequence if this project were not implemented, or if it were reduced in scope.

REQUIRED ATTACHMENTS

PLEASE SUBMIT THE FOLLOWING:

Written agreements for transfer or referral with local agencies or institutions applying for detoxification center or Level A halfway house license.

SQUARE FOOTAGE CHART

NAME OF FUNCTIONAL AREA *	PRESENT SQUARE FEET**	SQUARE FEET TO BE: **		TOTAL SQUARE FEET **
		CONSTRUCTED	RENOVATED	

*Examples of functional areas are: nursing stations, laboratory, doctor's office, lobby, medical records, etc.

**Indicate whether the amount recorded is gross or net square feet.

ENVIRONMENTAL ASSESSMENT

SUBSEQUENT TO THE ENACTMENT OF MASSACHUSETTS GENERAL LAWS, CHAPTER 30, SECTIONS 61 AND 62 (ENVIRONMENTAL PROTECTION) AND THE REGULATIONS ISSUED THEREUNDER BY THE EXECUTIVE OFFICE OF HUMAN SERVICES, THE DEPARTMENT OF PUBLIC HEALTH IS REQUIRED TO DETERMINE THE IMPACT ON THE NATURAL ENVIRONMENT OF ALL PROJECTS. IN ORDER FOR THE DEPARTMENT TO MAKE SUCH A DETERMINATION, ANY APPLICANT WHOSE PROJECT INCLUDES NEW CONSTRUCTION MUST COMPLETE THIS QUESTIONNAIRE. THE FORM SHOULD BE COMPLETED AND SIGNED BY A REGISTERED ARCHITECT. APPLICANTS WHOSE PROJECTS WILL EXCEED FIVE MILLION DOLLARS IN CAPITAL COSTS ARE URGED TO CONTACT THE DEPARTMENT AND SEEK ASSISTANCE IN THIS MATTER.

RESPOND TO ALL OF THE FOLLOWING QUESTIONS, INDICATING BOTH SHORT-TERM AND LONG-TERM EFFECTS. IF YOU ANTICIPATE EFFORTS TO MITIGATE THE IMPACT, YOU MAY WISH TO BRIEFLY DESCRIBE ANY SUCH RELEVANT EFFORTS. ANSWER ONLY IF THE PROJECT INVOLVES NEW CONSTRUCTION.

1) Could the project result in a deleterious effect on the quality of any portion of the state's air resources?

   a) By what percentage can you expect traffic volume to increase as a result of this project? By what percentage do you expect the volume of services delivered to increase? By what percentage will your staff expand?

   b) What is the present CO concentration in the area, if known?

   c) Will any additional boiler stacks be constructed, or will the output from existing ones increase, and if so, to what extent?

   d) Will the project result in the generation of significant amounts of dust?

2) Could the project result in the generation of significant amounts of noise?

3) Could the project result in a deleterious effect on the quality of any portion of the state's water resources?

   a) What percentage of currently pervious surface will be made impervious?

   b) Can your facility utilize the existing municipal sewage and/or storm drainage systems, or will it be necessary to construct your own?

   c) Will the additional demand on the municipal storm drainage systems as a result of this project represent an increase of more than one percent of the system's remaining capacity?

   d) If there is an increase in the volume of sanitary sewage, will it be in excess of one percent of the remaining capacity of the existing system?

   e) Is the sanitary and storm water sewage system mixed or separate?

   f) Could the project change existing features of any of the Commonwealth's fresh or salt waters or wetlands?

   g) Could the project change existing features of any of the Commonwealth's beaches?

   h) Will the project be built in a designated flood plain, or in an area subject to flooding?

4) Could the project have a deleterious effect on the land?

   a) On how many acres will your facility be located? What percentage of this currently is or will be built lup after the completion of this project and what will be open space?

   b) Will the soil be more vulnerable to erosion as a result of this project?

   c) Will soil removal, grading, or filling be necessary?

   d) Could the project affect the potential use, extraction, or conservation of a scarce natural resource?

   e) Could the project result in the elimination of land presently utilized for agricultural purposes?

5) Could the project have a deleterious effect on vegetation or animal habitation?

   a) Does the project area serve as a habitat, food source, water source, nesting place, etc, for any rare or endangered wildlife or fish species?

   b) Could the project affect fish, wildlife, or plant life?

   c) Are there any rare or endangered plant species in the affected areas?

   d) Will any trees by removed?

6) Will the project have a deleterious effect on the surrounding area?

   a) What is the current use of the land, and that of the surrounding area?

   b) How many square feet will be constructed? How many stories (building height) will the facility be? How many stories of this will be below grade?

   c) Will any significant wind tunnel or shadow effects be created?

   d) Could the project affect the use of a recreational area or area of important aesthetic value?

   e) Is the area of important scenic value?

   f) Could the project affect an historical or archeological structure or site?

   g) Are any of the natural or man-made features in the affected area unique?

7) Will the project involve the use and disposal of potentially hazardious (i.e., radiological) materials?

8) Are the following services and facilities adequate to handle the demand generated by our project?

   a) Water facilities (both adequacy or volume and pressure)

   b) Sewage and storm drainage facilities

   c) Solid-waste disposal facilities

   d) Power and other utilities

   e) Local transportation facilities

   f) Vehicular arteries

9) Will the project require a variance from or result in a violation of, any statute, ordinance, by-law, regulation, or standard, the major purpose of which is to prevent or minimize damage to the environment?

10) Will the project require certification, authorization, or issuance of a permit by any local, state, or federal environmental control agency?

11) Will any variances from the zoning codes be required?

12) If there are official plans for the area, is this project consistent with those plans?

13) Will the project result in any form of environmental damage not included in the above questions?

Attach an 8½ by 11 inch map of the area, indicating on such map the current usage of the area and the location of your facility?

FINANCIAL FEASIBILITY AND CAPABILITY

I. Submit a balance sheet, current to within one year, and income statement for the applicant, if available.

II. If the premises are to be leased, submit lease documents.

III. Provide line drawings of the space to be utilized and indicate the size of areas in square feet.

IVa. Prepare a projection of income and expense for the first three years of operation. Detail all items of expense, and supply a schedule of depreciation itemized by component, buildings, equipment, etc. Prepare projected year end balance sheets for each of the first three years of operation. Include the assumptions underlying the projections, including utilization assumptions, number of visits expected, etc.

IVb. Prepare a schedule of patient charges (existing, if applicable, and proposed) for each type of service.

IVc. Outline a breakdown of (existing, if applicable, and proposed) sources of revenue by category of payor. If any service is to be provided by contract, submit relevant contracts.

IVd. Indicate salaries of all personnel. Will any personnel provide service on the premises on a private, "fee for service" basis?

V. Complete the tables which are outlined in the following pages. Read instructions for each carefully.

Table I	Estimated Capital Expenditure
Table Ia	Equipment List
Table II	Source of Funds
Table IIa	Alternative Method of Financing

The concept of financial feasibility, its determinants and its significance in the Determination of Need process are addressed clearly in the Regulations--Reference Sections 5 (3), 5 (22), 5 (23), 31.5, 34.3 (1), 54.3 (7, 8, 9), 54.5, 55.2 (3, 6, 7). Applicants should review these sections prior to completion of the financial component of the application form.

TABLE I - ESTIMATED CAPITAL EXPENDITURE

Outlined below is a comprehensive list of all components of Estimated Capital Expenditure. Capital Expenditure as defined in the Regulations includes the site acquisition cost of land and buildings or fair market value of land and buildings if leased, the total cost of construction including all site improvements, the cost of all capital equipment or fair market value if leased, the cost of all professional fees associated with the development of the project, including fees for architectural, engineering, legal, accounting, feasibility planning and financing services, any fee associated with financing, and the interest cost to be incurred on funds borrowed during construction (but not including the on-going interest expense of permanent financing).

The estimate to be computed below must be based on costs and interest rates as of the date of application and should not include any provision for inflation. The maximum estimate of total capital expenditure may not exceed the minimum by more than 25%. Do not include a provision for contingency.

		MINIMUM	MAXIMUM
1.	Land (acquisition cost).	$_____	$_____
2.	Building (acquisition cost).	_____	_____
3.	Construction Contract (include bonding costs). .	_____	_____
	Fixed Equipment not in contract (see Table Ia) .	_____	_____
5.	Movable Equipment (see Table Ia)	_____	_____
6.	Site Survey and Soil Investigation	_____	_____
7.	Architect's Fee.	_____	_____
8.	Architectural Supervision.	_____	_____
9.	Financing and Underwriting	_____	_____
10.	Construction Loan Interest (rate = _____%). .	_____	_____
11.	Legal Fees	_____	_____
12.	Other (Itemize).	_____	_____
	. . . . .	_____	_____
	. . . . .	_____	_____
	ESTIMATED RANGE OF TOTAL CAPITAL EXPENDITURES	$_____	$_____

//

TABLE Ia - DETAILED EQUIPMENT LIST

Complete a list of capital equipment which is a part of the project. Include the purchase price of the equipment or the fair market value if leased. The list should include all fixed and major movable equipment not included in the construction contract. Submit all agreements and contracts relating to the provision of equipment.

Fixed Equipment	Estimated Cost (use maximum) and Estimated Useful Life

Total . . . . . .$_____

Major Movable

Total . . . . . .$_____

TABLE II - SOURCE OF FUNDS

PROPOSED FINANCING

Check anticipated source of permanent financing:

Lending Institution (specify) _____
Federal Housing Administration Guarantee (FHA)
Other Financing (specify) _____

SOURCE OF FUNDS

Permanent Loan: (1) (2)
Principal. . . . . $_____
Interest Rate (annual) . . . . . _____%
Term . . . . . _____
Other Source: (specify). . . . . $_____

Sponsors Investment:
Cash*. . . . . $_____
Other. . . . . _____
Total Sponsors Investment . . . . . $_____

Total Capital Expenditure . . . . . $_____

*Source of Cash (specify):

Collateral: Indicate the specific extent of mortagee's proposed collateral interest in real property, gross receipts, etc.

_____

_____

_____

Working Capital Financing: Indicate the project's requirement for new working capital, including requirements due to start-up expenses.

_____

_____

_____

(1) If proposed debt service requires other than even periodic payments which include principal and interest, attach a separate sheet outlining the required schedule of payments of principal and interest over the term of the loan.

(2) Purchase/leaseback or similar arrangements which are in essence forms of secured financing should be indicated separately on an attachment indicating terms of the proposed arrangement.

TABLE IIa - ALTERNATIVE METHOD OF FINANCING

Indicate a viable alternative to the means of financing outlined in Table II.

SOURCE OF FUNDS

Permanent Loan:
- Principal. . . . . $_____
- Interest Rate (annual) . . . . . _____%
- Term . . . . . _____

Other Source: (specify). . . . . $_____

Sponsors Investment:
- Cash*. . . . . $_____
- Other. . . . . _____

Total Sponsors Investment . . . . . $_____

Total Capital Expenditure . . . . . $_____

*Source of Cash (specify):

COMMONWEALTH OF MASSACHUSETTS
DEPARTMENT OF PUBLIC HEALTH

****

APPLICATION FOR DETERMINATION OF NEED

****

UNIQUE APPLICATION FOR COMMUNITY MENTAL HEALTH CENTERS

AFFIDAVIT OF TRUTHFULNESS AND PROPER SUBMISSION

_____
(Name of Applicant)

_____
(Address of Applicant)

hereby makes application for a determination of need under Chapter 111 or 111B of the General Laws and the Massachusetts Determination of Need Regulations.

for: ___ original licensure
___ substantial capital expenditure
___ substantial change in service

respecting a: ____ hospital
____ long term care facility
____ clinic
____ other (specify)_____

for the development of:

_____
(Name of facility and/or program)

at the following address:

_____
(Street and Town)

with the range of the estimated capital expenditure (Section 5 (3) of the Regulations):

_____Minimum _____Maximum

I, THE UNDERSIGNED, CERTIFY THAT:

1) I have read the Massachusetts Determination of Need Regulations;
2) I have read this application for Determination of Need including all exhibits and attachments, and the information contained therein is accurate and true;
3) I have submitted the required copies of this application to the State and appropriate regional comprehensive health planning agencies and, if relevant under Section 15 of the Regulations, to the Department of Elder Affairs;
4) I have caused notice to be published as required by Section 32 of the Regulations. The notice, true copies of which are enclosed, was published in the

_____on_____
(Name of Newspaper) (Date of Publication)

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5) The applicant is, or will be, the eventual licensee of the facility.
6) All material submitted to the Department by or on behalf of the applicant respecting the subject matter of this application is, to the best of my knowledge and belief, accurate and true.

Signed on the_____day of_____, 197_ under the pains and penalties of perjury.

_____
Signature of Authorized Official

_____
Position or Title

THIS FORM MUST BE NOTARIZED IN THE SPACE PROVIDED BELOW:

GENERAL IDENTIFYING INFORMATION

1) NAME OF APPLICANT _____

ADDRESS _____
STREET CITY COUNTY ZIPCODE

2) NAME OF FACILITY (IF DIFFERENT) _____

ADDRESS _____
STREET CITY COUNTY ZIPCODE

3) NAME OF PERSON TO BE CONTACTED REGARDING THIS APPLICATION:

_____ TITLE _____

ADDRESS _____
STREET CITY COUNTY ZIPCODE

TELEPHONE (____) _____

TYPE OF OWNERSHIP

4) _____CITY _____STATE PROPRIETARY: _____INDIVIDUAL

_____COUNTY _____PRIVATE NONPROFIT ORGANIZATION _____PARTNERSHIP

_____CORPORATION

5) List all officers, members of the board of directors, trustees, stockholders, partners, and any other individuals with any equity, or otherwise controlling, interest in the applicant. With respect to each person listed, please give their address, principal occupation, position with respect to the applicant, and amount, if any, of the percentage of stock, share of partnership, or other equity interest in the applicant. Attach as an appendix.

6) Have any of the individuals listed in response to Question 5:

a) Ever been involved in any proceeding before any local, state, or federal agency, or court, concerning any alleged violation of any local, state, or federal statute, regulation, ordinance, or other law?

b) Ever been involved as a debtor, or as an officer, director, or equity owner of a debtor company, in a proceeding under any chapter of the Federal Bankruptcy Act?

7) With respect to all individuals listed in Question 5:

a) List all other health care facilities, within or without the Commonwealth, in which they are officers, directors, trustees, stockholders, partners, or in which they hold any equity interest.

b) Do any of the individuals presently have, or intend to have, any business relationship, including but not limited to: supply company, construction company, mortgage company, etc., with the applicant.

8) If the applicant is a corporation: (attach articles in appendix)

a) date articles of incorporation approved _____

b) or, date articles of incorporation filed _____

9) Approximate date for:

Commencement of construction _____

Completion of construction _____

Commencement of operation _____

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MINIMUM EXPENDITURE_____ FILING FEE_____

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MINIMUM EXPENDITURE = $_____

-1,000,000.00

=_____ X .00005 = $_____

\+ 100.00

FILING FEE = _____

Applicant must attach here check or money order made payable to "The Commonwealth of Massachusetts," in the amount indicated above.

IF APPLICANT CLAIMS AN EXEMPTION FROM THE FILING FEE, HE MUST STATE HERE WHY HE IS EXEMPT FROM THE REQUIREMENT OF A FILING FEE, CITING THE APPLICABLE REGULATION.

NEWSPAPER NOTICE

Applicant attach here a true copy of the notices of publication, with date of publication, as required under Section 32 of the Massachusetts Determination of Need Regulations.

SYNOPSIS

PROVIDE A BRIEF (250 words) SYNOPSIS OF THE PROPOSAL WHICH SHOULD INCLUDE:

A) Name and address of the facility,

B) The geographical area to be served by the facility,

C) Description of proposed construction or renovation,

D) Brief description of the service (s) to be provided upon completion of the project. Include any anticipated changes in volume, costs, treatment methodologies, etc., if applicable,

E) The range of the estimated capital expenditure, and a brief description of the cost implications of the project.

PROJECT NARRATIVE

PLEASE ANSWER THE FOLLOWING QUESTIONS:

1) Discuss the need which this application seeks to address and the manner in which you have become aware of it. Included within this discussion should be a general demographic description of the proposed service area and a listing of other facilities or physicians which provide similar health care services in the area.

2) Discuss how approval and implementation of this project will satisfy the need outlined in Question 1. As well, discuss alternatives which were considered and the possible consequences of either not implementing this project or of implementing a project of reduced scope.

3) Describe the relationship between the community mental health center and the area unit at the state hospital. Include a description of screening and after care procedures.

4) Discuss both the internal and external planning (e.g. long-range planning committee, regional health planning agency area board) for this project. Discuss the relationship of this project to the long-range plans of the area program.

5) Briefly describe the project which you seek to undertake. Factors such as the following should be included: Services to be provided, staffing, referral, back-up treatment, hours and days of operation, a description of the physical plant, accessibility of the facility, any unique features of either the facility or the population to be served, and payment sources. If applicable, describe services at each different location.

6) Describe any anticipated financial effects attributable to this project. (e.g. operational efficiency, reduction in staff, better utilization of facilities, etc.)

INSTRUCTIONS FOR COMPLETION OF CHARTS

COMPLETE THE FOLLOWING CHARTS FOR EACH SERVICE WHICH YOU WILL OFFER.

Please note the following special instructions:

1) In addition to the basic services offered, include under "name of service" both after care and crisis intervention.

2) If possible, provide data of the actual experience for two years preceeding the application, and projected data for the next two years of normal operation.

3) Carry out all computations to two significant figures.

4) Complete the square footage chart, including both gross and net square feet, for each separate location of the center.

REQUIRED ATTACHMENTS

Submit written agreements for transfer and/or referral with local agencies and institutions.

VOLUME OF SERVICE

NAME OF SERVICE	VOLUME PER YEAR							
	197_		197_		197_		197_	
	#Visits	#Clients	#Visits	#Clients	#Visits	#Clients	#Visits	#Clients

SQUARE FOOTAGE CHART

NAME OF FUNCTIONAL AREA *	PRESENT SQUARE FEET**	SQUARE FEET TO BE: **		TOTAL SQUARE FEET **
		CONSTRUCTED	RENOVATED	

*Examples of functional areas are: nursing stations, laboratory, doctor's office, lobby, medical records, etc.

**Indicate whether the amount recorded is gross or net square feet.

SUBSEQUENT TO THE ENACTMENT OF MASSACHUSETTS GENERAL LAWS, CHAPTER 30, SECTIONS 61 AND 62 (ENVIRONMENTAL PROTECTION) AND THE REGULATIONS ISSUED THEREUNDER BY THE EXECUTIVE OFFICE OF HUMAN SERVICES, THE DEPARTMENT OF PUBLIC HEALTH IS REQUIRED TO DETERMINE THE IMPACT ON THE NATURAL ENVIRONMENT OF ALL PROJECTS. IN ORDER FOR THE DEPARTMENT TO MAKE SUCH A DETERMINATION, ANY APPLICANT WHOSE PROJECT INCLUDES NEW CONSTRUCTION MUST COMPLETE THIS QUESTIONNAIRE. THE FORM SHOULD BE COMPLETED AND SIGNED BY A REGISTERED ARCHITECT. APPLICANTS WHOSE PROJECTS WILL EXCEED FIVE MILLION DOLLARS IN CAPITAL COSTS ARE URGED TO CONTACT THE DEPARTMENT AND SEEK ASSISTANCE IN THIS MATTER.

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1) Could the project result in a deleterious effect on the quality of any portion of the state's air resources?

   a) By what percentage can you expect traffic volume to increase as a result of this project? By what percentage do you expect the volume of services delivered to increase? By what percentage will your staff expand?

   b) What is the present CO concentration in the area, if known?

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   a) What percentage of currently pervious surface will be made impervious?

   b) Can your facility utilize the existing municipal sewage and/or storm drainage systems, or will it be necessary to construct your own?

   c) Will the additional demand on the municipal storm drainage systems as a result of this project represent an increase of more than one percent of the system's remaining capacity?

   d) If there is an increase in the volume of sanitary sewage, will it be in excess of one percent of the remaining capacity of the existing system?

   e) Is the sanitary and storm water sewage system mixed or separate?

   f) Could the project change existing features of any of the Commonwealth's fresh or salt waters or wetlands?

   g) Could the project change existing features of any of the Commonwealth's beaches?

   h) Will the project be built in a designated flood plain, or in an area subject to flooding?

4) Could the project have a deleterious effect on the land?

   a) On how many acres will your facility be located? What percentage of this currently is or will be built lup after the completion of this project and what will be open space?

   b) Will the soil be more vulnerable to erosion as a result of this project?

   c) Will soil removal, grading, or filling be necessary?

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   a) What is the current use of the land, and that of the surrounding area?

   b) How many square feet will be constructed? How many stories (building height) will the facility be? How many stories of this will be below grade?

   c) Will any significant wind tunnel or shadow effects be created?

   d) Could the project affect the use of a recreational area or area of important aesthetic value?

   e) Is the area of important scenic value?

   f) Could the project affect an historical or archeological structure or site?

   g) Are any of the natural or man-made features in the affected area unique?

7) Will the project involve the use and disposal of potentially hazardous (i.e., radiological) materials?

8) Are the following services and facilities adequate to handle the demand generated by our project?

   a) Water facilities (both adequacy or volume and pressure)

   b) Sewage and storm drainage facilities

   c) Solid-waste disposal facilities

   d) Power and other utilities

   e) Local transportation facilities

   f) Vehicular arteries

9) Will the project require a variance from or result in a violation of, any statute, ordinance, by-law, regulation, or standard, the major purpose of which is to prevent or minimize damage to the environment?

10) Will the project require certification, authorization, or issuance of a permit by any local, state, or federal environmental control agency?

11) Will any variances from the zoning codes be required?

12) If there are official plans for the area, is this project consistent with those plans?

13) Will the project result in any form of environmental damage not included in the above questions?

Attach an 8½ by 11 inch map of the area, indicating on such map the current usage of the area and the location of your facility?

FINANCIAL FEASIBILITY AND CAPABILITY

I. Submit a balance sheet, current to within one year, and income statement for the applicant, if available.

II. If the premises are to be leased, submit lease documents.

III. Provide line drawings of the space to be utilized and indicate the size of areas in square feet.

IVa. Prepare a projection of income and expense for the first three years of operation. Detail all items of expense, and supply a schedule of depreciation itemized by component, buildings, equipment, etc. Prepare projected year end balance sheets for each of the first three years of operation. Include the assumptions underlying the projections, including utilization assumptions, number of visits expected, etc.

IVb. Prepare a schedule of patient charges (existing, if applicable, and proposed) for each type of service.

IVc. Outline a breakdown of (existing, if applicable, and proposed) sources of revenue by category of payor. If any service is to be provided by contract, submit relevant contracts.

IVd. Indicate salaries of all personnel. Will any personnel provide service on the premises on a private, "fee for service" basis?

V. Complete the tables which are outlined in the following pages. Read instructions for each carefully.

Table I	Estimated Capital Expenditure
Table Ia	Equipment List
Table II	Source of Funds
Table IIa	Alternative Method of Financing

The concept of financial feasibility, its determinants and its significance in the Determination of Need process are addressed clearly in the Regulations--Reference Sections 5 (3), 5 (22), 5 (23), 31.5, 34.3 (1), 54.3 (7, 8, 9), 54.5, 55.2 (3, 6, 7). Applicants should review these sections prior to completion of the financial component of the application form.

TABLE I - ESTIMATED CAPITAL EXPENDITURE

Outlined below is a comprehensive list of all components of Estimated Capital Expenditure. Capital Expenditure as defined in the Regulations includes the site acquisition cost of land and buildings or fair market value of land and buildings if leased, the total cost of construction including all site improvements, the cost of all capital equipment or fair market value if leased, the cost of all professional fees associated with the development of the project, including fees for architectural, engineering, legal, accounting, feasibility planning and financing services, any fee associated with financing, and the interest cost to be incurred on funds borrowed during construction (but not including the on-going interest expense of permanent financing).

The estimate to be computed below must be based on costs and interest rates as of the date of application and should not include any provision for inflation. The maximum estimate of total capital expenditure may not exceed the minimum by more than 25%. Do not include a provision for contingency.

		MINIMUM	MAXIMUM
1.	Land (acquisition cost).	$_____	$_____
2.	Building (acquisition cost).	_____	_____
3.	Construction Contract (include bonding costs). .	_____	_____
4.	Fixed Equipment not in contract (see Table Ia) .	_____	_____
5.	Movable Equipment (see Table Ia)	_____	_____
6.	Site Survey and Soil Investigation	_____	_____
7.	Architect's Fee.	_____	_____
8.	Architectural Supervision.	_____	_____
9.	Financing and Underwriting	_____	_____
10.	Construction Loan Interest (rate = _____%). .	_____	_____
11.	Legal Fees	_____	_____
12.	Other (Itemize).	_____	_____
	. . . . .	_____	_____
	. . . . .	_____	_____
	ESTIMATED RANGE OF TOTAL CAPITAL EXPENDITURES	$_____	$_____

TABLE Ia - DETAILED EQUIPMENT LIST

Complete a list of capital equipment which is a part of the project. Include the purchase price of the equipment or the fair market value if leased. The list should include all fixed and major movable equipment not included in the construction contract. Submit all agreements and contracts relating to the provision of equipment.

Fixed Equipment	Estimated Cost (use maximum) and Estimated Useful Life

Total . . . . . .$_____

Major Movable

Total . . . . . .$_____

TABLE II - SOURCE OF FUNDS

PROPOSED FINANCING

Check anticipated source of permanent financing:

Lending Institution (specify) _____
Federal Housing Administration Guarantee (FHA)
Other Financing (specify) _____

SOURCE OF FUNDS

Permanent Loan: (1) (2)
Principal. . . . . $_____
Interest Rate (annual) . . . . . _____%
Term . . . . . _____
Other Source: (specify). . . . . $_____

Sponsors Investment:
Cash*. . . . . $_____
Other. . . . . _____
Total Sponsors Investment . . . . . $_____

Total Capital Expenditure . . . . . $_____

*Source of Cash (specify):

Collateral: Indicate the specific extent of mortagee's proposed collateral interest in real property, gross receipts, etc.

_____

_____

_____

Working Capital Financing: Indicate the project's requirement for new working capital, including requirements due to start-up expenses.

_____

_____

_____

(1) If proposed debt service requires other than even periodic payments which include principal and interest, attach a separate sheet outlining the required schedule of payments of principal and interest over the term of the loan.

(2) Purchase/leaseback or similar arrangements which are in essence forms of secured financing should be indicated separately on an attachment indicating terms of the proposed arrangement.

TABLE IIa - ALTERNATIVE METHOD OF FINANCING

Indicate a viable alternative to the means of financing outlined in Table II.

SOURCE OF FUNDS

Permanent Loan:
- Principal. . . . . $_____
- Interest Rate (annual) . . . . . _____%
- Term . . . . . _____

Other Source: (specify). . . . . $_____

Sponsors Investment:
- Cash*. . . . . $_____
- Other. . . . . _____

Total Sponsors Investment . . . . . $_____

Total Capital Expenditure . . . . . $_____

*Source of Cash (specify):